

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1747

By: Murdock

AS INTRODUCED

An Act relating to medical marijuana; amending 2 O.S. 2021, Section 3-82, which relates to license, permit, and registration requirements for pesticide users; providing methods for valuation of certain damaged crops; providing exception for aerial applicators under certain conditions; amending 63 O.S. 2021, Section 427.3, as last amended by Section 9, Chapter 553, O.S.L. 2021, which relates to Oklahoma Medical Marijuana Authority duties; requiring Authority to establish market value report; providing contents of report; authorizing the Authority to promulgate the rules necessary to compile report; authorizing the Authority to provide grower information; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2021, Section 3-82, is amended to read as follows:

Section 3-82. A. LICENSE REQUIRED - 1. It shall be unlawful for any person to act, operate, or do business or advertise as a commercial, noncommercial, certified applicator, temporary certified applicator, service technician, or private applicator unless the person has obtained a valid applicator's license issued by the State

1 Board of Agriculture for the category of pesticide application in  
2 which the person is engaged.

3 2. A license may be issued by the Board in any category of  
4 pesticide application if the applicant qualifies and the applicant  
5 is limited to the category of pesticide application named on the  
6 license. The Board may establish categories of pesticide  
7 application as necessary. Licenses shall be issued upon application  
8 to the Board on a form prescribed by the Board. The application  
9 shall contain information regarding the applicant's qualifications,  
10 proposed operations, and other information as specified by the  
11 Board.

12 3. a. An aerial license shall not be issued or be valid  
13 unless the applicant files with the Board a copy of a  
14 valid document issued by the Federal Aviation  
15 Administration showing that the person is qualified to  
16 operate or supervise the operation of an aircraft  
17 conducting agricultural operations. Applicants for an  
18 aerial license and pilots working under a license may  
19 be subject to a complete and thorough background  
20 examination.

21 b. The Board shall promulgate rules regarding aerial  
22 applicators and applications consistent with federal  
23 law and shall solicit the assistance of the Federal  
24 Aviation Agency in the enforcement of this subsection.

1        4. Each business location shall require a separate license and  
2 separate certified applicator except that a certified applicator for  
3 a noncommercial business location may also serve as the certified  
4 applicator for one commercial business location.

5        5. A license shall not be issued for the category of pesticide  
6 application of any applicant or representative who has a temporary  
7 certification.

8        B. CERTIFICATION REQUIRED - 1. A license shall be issued only  
9 after satisfactory completion of the certification standards by the  
10 person who shall be the certified applicator under the license.

11 Temporary certified applicators do not qualify as the certified  
12 applicator for a license, nor may they act as a certified  
13 applicator. The Board shall deny the application for certification,  
14 recertification, issuance, or renewal of a certificate or license  
15 for a failure to show proper qualification under the rules or for  
16 violations of any provisions of this section. A certificate in any  
17 category shall be valid for five (5) years unless suspended,  
18 canceled, or revoked by the Board or until recertification is  
19 required for the category, and may be renewed after successful  
20 completion of recertification requirements. The Board may require  
21 certified applicators to be recertified once in a five-year period.

22        2. A certified service technician identification shall be  
23 issued upon application and completion of certification standards  
24 determined by the Board. Temporary certified applicators may

1 qualify as a certified service technician. No person shall act, do  
2 business as, or advertise as a service technician unless the person  
3 has met all the qualifications and standards as required by the  
4 Board. The service technicians' identification shall be issued in  
5 the name of the licensed entity. The licensee shall ensure that the  
6 service technician identification is returned to the Board upon  
7 termination of the employee. A service technician identification  
8 shall be valid for a period of five (5) years unless suspended,  
9 canceled, or revoked by the Board, until recertification is required  
10 by the Board, or until the service technician leaves the employ of  
11 the licensed entity. The Oklahoma Department of Agriculture, Food,  
12 and Forestry may issue a service technician identification upon  
13 completion of the following:

- 14 a. a determination is made by the Department that the  
15 applicant has successfully completed the written  
16 examination,
- 17 b. the licensed entity provides a completed service  
18 technician identification application form at the time  
19 of testing, and
- 20 c. all appropriate fees are paid at the time of testing.

21 3. Each license, except for private applicators, shall expire  
22 on dates established by the Department in administrative rules and  
23 may be renewed for the ensuing calendar year, without penalty or  
24 reexamination, if a properly completed application is filed with the  
25

1 Board on a date established by the Department. If the application  
2 is not received by the due date, a penalty of twice the amount of  
3 the renewal fee shall be charged for renewal of the license. If the  
4 application is not received within thirty (30) days following the  
5 due date, an additional one-hundred-dollar penalty shall be paid  
6 prior to license renewal.

7 All private applicator licenses are in effect for five (5) years  
8 and may be renewed by application after completion of a continuing  
9 education program or written exam approved by the Board.

10 C. The following fees shall be paid to the Board:

11 1. A fee of One Hundred Dollars (\$100.00) for each category of  
12 pesticide application shall be paid to the Board for the issuance or  
13 renewal of a commercial applicator business license. Not more than  
14 Five Hundred Dollars (\$500.00) total category fees shall be charged  
15 annually to any business location of an applicator;

16 2. A fee of Fifty Dollars (\$50.00) shall be paid to the Board  
17 for each written examination conducted by the Board;

18 3. A fee of Fifty Dollars (\$50.00) shall be paid to the Board  
19 for each practical examination conducted by the Board;

20 4. A fee of Twenty Dollars (\$20.00) shall be paid to the Board  
21 for the issuance or renewal of a private applicator's license;

22 5. A fee of Fifty Dollars (\$50.00) shall be paid to the Board  
23 for the issuance or renewal of a noncommercial business license.

24 Not more than Two Hundred Fifty Dollars (\$250.00) total category

1 fees shall be charged annually to any noncommercial business  
2 location of an applicator;

3 6. A fee of Twenty Dollars (\$20.00) shall be paid to the Board  
4 for the issuance or renewal of service technician identification;

5 7. A fee of Ten Dollars (\$10.00) shall be paid to the Board for  
6 the issuance of duplicate licenses or certificates or transfer of  
7 service technician identification;

8 8. A fee of Fifty Dollars (\$50.00) shall be paid to the Board  
9 for each recertification procedure; and

10 9. A fee of One Hundred Dollars (\$100.00) shall be paid to the  
11 Board for each reciprocal certification procedure for applicator  
12 certifications.

13 D. All fees shall be deposited in the State Department of  
14 Agriculture Revolving Fund.

15 E. Fees shall be paid to the Board prior to the processing of  
16 any application.

17 F. Failure to pay any fee identified with licenses, permits,  
18 pesticide registrations, or certification shall require the Board to  
19 deny the application.

20 G. INSURANCE REQUIRED - 1. The Board shall not issue a  
21 commercial applicator's license until the applicant has furnished  
22 evidence of an insurance policy or certificate by an insurer or  
23 broker authorized to do business in this state insuring the  
24 commercial applicator and any agents against liability resulting

1 from the operations of the commercial applicator. The insurance  
2 shall not be applied to damage or injury to agricultural crops,  
3 plants, or land being worked upon by the commercial applicator.

4 2. The amount of liability shall not be less than that set by  
5 the Board for each property damage arising out of actual use of any  
6 pesticide. The liability shall be maintained at not less than that  
7 sum at all times during the licensing period. The Board shall be  
8 notified fifteen (15) days prior to any reduction in liability.

9 3. If the furnished liability becomes unsatisfactory, the  
10 applicant shall immediately execute new liability upon notice from  
11 the Board. If new liability is not immediately obtained, the Board  
12 shall, upon notice, cancel the license. It shall be unlawful for  
13 the person to engage in the business of applying pesticides until  
14 the liability is brought into compliance and the license reinstated.

15 H. DAMAGES - 1. Prior to filing an action against an  
16 applicator for damages to growing crops or plants, any person  
17 alleging damages to growing crops or plants shall:

- 18 a. within ninety (90) calendar days of the date that the  
19 alleged damages occurred or prior to the time that  
20 twenty-five percent (25%) of the allegedly damaged  
21 crops or plants are harvested, whichever occurs first,  
22 file a written complaint statement with the Department  
23 regarding the alleged damages, and  
24

1           b.   between the date of filing of the written complaint  
2               pursuant to subparagraph a of this paragraph and the  
3               date harvesting or destruction of the allegedly  
4               damaged crops or plants occurs, allow the applicator  
5               and the representatives of the applicator reasonable  
6               access to the property to inspect and take samples of  
7               the allegedly damaged crops or plants during  
8               reasonable hours. The representatives of the  
9               applicator may include, but not be limited to, crop  
10              consultants, bondsmen, and insurers. Nothing in this  
11              subparagraph shall limit in any way the harvesting or  
12              destruction of the allegedly damaged crops or plants  
13              in the ordinary course of business and practice.

14           2. Any person failing to comply with paragraph 1 of this  
15 subsection shall be barred from filing an action for damages against  
16 the applicator.

17           3. Any person pursuing a claim for damages to medical marijuana  
18 plants pursuant to this section may establish the value of the  
19 plants based upon the following:

20           a.   the stage of growth of the surviving plants. The  
21               stages of growth shall be limited to seedlings,  
22               immature plants, and mature plants as defined in  
23               Section 427.2 of Title 63 of the Oklahoma Statutes,  
24



1           b. if no surviving plants remain, then a person claiming  
2           damages may request from the Oklahoma Department of  
3           Health the data from the most recently submitted  
4           monthly yield and sales report as provided in Section  
5           422 of Title 63 of the Oklahoma Statutes and use the  
6           data to establish the value of the plants, or

7           c. if the producer has established a five-year production  
8           history, then the value of the damaged plants may be  
9           based on the average production.

10          4. Aerial applicators shall not be liable for damages to  
11          marijuana plants grown indoors or in a greenhouse so long as the  
12          aerial applicator was not reckless in the application and provided  
13          notice to the licensed indoor or greenhouse grower prior to  
14          application.

15          I. PERMIT REQUIRED - 1. It shall be unlawful for any person to  
16          sell, offer for sale, or distribute within this state any restricted  
17          use pesticide without first obtaining a restricted use pesticide  
18          dealer's permit issued by the Board.

19          2. A permit may be issued by the Board in any category of  
20          pesticide sales if the applicant qualifies under the provisions of  
21          this section and the applicant is limited to the category of  
22          pesticide sales named on the permit. The Board may establish  
23          categories of pesticide sales as necessary.

1        3. The permit shall be issued only upon application on a form  
2 prescribed by the Board and the application shall contain  
3 information regarding the applicant's proposed operation and other  
4 information as specified by the Board.

5        4. Each business location engaged in the sale or distribution  
6 of restricted use pesticides shall require a separate permit.

7        5. The annual permit fee for a restricted use pesticide dealer  
8 permit shall be Fifty Dollars (\$50.00) for each location.

9        6. The Board may require a certified applicator to be present  
10 at any location where designated restricted use pesticide sales  
11 occur.

12        J. PESTICIDE REGISTRATION REQUIRED - 1. Every pesticide or  
13 device distributed, sold, or offered for sale within this state or  
14 delivered for transportation or transported in intrastate or  
15 interstate commerce shall be registered with the Board.

16        2. The registrant shall file with the Board a statement  
17 including, but not limited to:

- 18            a. the name and address of the registrant and the name  
19                      and address of the person whose name shall appear on  
20                      the label, if other than the registrant,
- 21            b. the name of the pesticide or device,
- 22            c. a complete copy of the labeling accompanying the  
23                      pesticide or device and a statement of all claims to  
24                      be made for it, and directions for use, and

1           d.    if requested by the Board, a full description of the  
2                tests made and the results upon which the claims are  
3                based. In renewing a registration, a statement shall  
4                be required only with respect to information which is  
5                different from the information furnished when the  
6                pesticide or device was last registered.

7           3. Each registrant shall pay to the Board an annual  
8 registration fee of Two Hundred Ten Dollars (\$210.00) for each  
9 pesticide or device label registered. These fees shall be used by  
10 the Oklahoma Department of Agriculture, Food, and Forestry for  
11 purposes of administering pesticide management programs. A portion  
12 of these fees, in the amount of Three Hundred Thousand Dollars  
13 (\$300,000.00) annually, shall be dedicated for conducting programs  
14 for unwanted pesticide disposal. This amount shall be deposited  
15 into the State Department of Agriculture Unwanted Pesticide Disposal  
16 Fund and shall be dedicated for this use only.

17           4. The Board may require the submission of the complete formula  
18 of any pesticide. Trade secrets and formulations submitted by the  
19 registrant may be kept confidential. If it appears to the Board  
20 that the composition of the pesticide is adequate to warrant the  
21 proposed claims and if the pesticide, its labeling, and other  
22 material required to be submitted comply with the requirements of  
23 this section, then the pesticide shall be registered.

1        5. If it does not appear to the Board that the pesticide or  
2 device is adequate to warrant the proposed claims for it or if the  
3 pesticide or device, its labeling, and other material required to be  
4 submitted do not comply with the provisions of this section, it  
5 shall notify the applicant of the deficiencies in the pesticide,  
6 device, labeling, or other material required and afford the  
7 applicant an opportunity to make the necessary corrections. If the  
8 applicant claims, in writing, that the corrections are not necessary  
9 and requests in writing a hearing regarding the registration of the  
10 pesticide or device, the Board shall provide an opportunity for a  
11 hearing before refusing to issue the registration. In order to  
12 protect the public, the Board may at any time cancel the  
13 registration of a product or device. In no event, shall  
14 registration of a pesticide or device be considered as a defense or  
15 excuse for the commission of any offense prohibited under this  
16 section.

17        6. The Board may require that pesticides be distinctively  
18 colored or discolored to protect the public health.

19        7. Registration shall not be required in the case of a  
20 pesticide shipped from one plant or place within this state to  
21 another plant or place within this state that is operated by the  
22 same person.  
23  
24  
25

1 K. CATEGORIES OF LICENSES AND PERMITS - The Board may establish  
2 any category of license for pesticide application or any category of  
3 permit for pesticide sales.

4 L. PERMIT AND PESTICIDE REGISTRATION EXPIRATION - 1. All  
5 permits for pesticide sales shall be issued for a period of one (1)  
6 year and the permits shall be renewed annually and shall expire on a  
7 date determined by the Board. A permit may be renewed for the  
8 ensuing year, without penalty, if a properly completed application  
9 is filed with the Board not later than the fifteenth day of the  
10 month first following the date of expiration. If the application is  
11 not received by that date, a penalty of twice the amount of the  
12 renewal fee shall be charged for renewal of the permit.

13 2. All pesticide registrations shall be issued for a period of  
14 one (1) year. The registration shall be renewed annually and shall  
15 expire on a date to be determined by the Board. Pesticide  
16 registrations may be renewed for the ensuing year, without penalty,  
17 if a properly completed application is filed with the Board not  
18 later than the fifteenth day of the month first following the date  
19 of expiration. If the application is not received by that date, a  
20 penalty of twice the amount of the renewal fee shall be charged for  
21 renewal of the pesticide registration.

22 M. PESTICIDE PRODUCING ESTABLISHMENTS - 1. Definitions as used  
23 in this subsection:  
24  
25

- 1           a. "establishment" means any site where a pesticide  
2           product, active ingredient or device is produced  
3           within the state,  
4           b. "produce" means to manufacture, prepare, propagate,  
5           compound or process any pesticide or to package,  
6           repackage, label, relabel or otherwise change the  
7           container of any pesticide or device, and  
8           c. "producer" means any person who produces,  
9           manufactures, prepares, compounds, propagates or  
10          processes any active ingredient, pesticide, or device  
11          as used in producing a pesticide.

12          2. It shall be unlawful for any person to produce within this  
13          state any pesticide, active ingredient or device without first  
14          obtaining a pesticide producer establishment permit issued by the  
15          Board.

16          3. The permit shall be issued only upon application on a form  
17          prescribed by the Board. The application shall contain information  
18          regarding the proposed operation of the applicant and other  
19          information as specified by the Board. If at any time there is a  
20          change of the information provided in or on the application for a  
21          pesticide producer establishment permit, the producer must notify  
22          the Board in writing within thirty (30) calendar days of the change.

23          4. The producer shall file a statement with the Board including  
24          but not limited to:

- a. the name and address of the company,
- b. the name and address of the establishment as well as the physical location, if different than the mailing address,
- c. the name of any pesticide, active ingredient, or device, and
- d. the name and address and other pertinent contact information for the responsible party.

5. All permits for pesticide producer establishments shall be issued for a period of one (1) year and shall be renewed annually. All permits shall expire on June 30 each year and may be renewed without penalty if a properly completed application is filed with the Board not later than the fifteenth day of the month first following the date of expiration. If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the permit.

6. Each pesticide producer establishment location engaged in the production of pesticides, active ingredients or devices shall require a separate permit.

7. The annual permit fee for a pesticide producer establishment shall be One Hundred Dollars (\$100.00) for each location.

8. If requested by the Board, a complete copy of all labeling, Material Safety Data Sheets, technical information associated with the pesticide, active ingredient, or device and a statement of all

1 claims to be made as well as directions and use must be submitted to  
2 the Board.

3 9. In order to determine compliance with state and federal  
4 laws, the Board may request a full disclosure of inventory records,  
5 sales and distribution records, and any other information deemed  
6 necessary by the Board.

7 10. Every producer shall keep accurate records pertaining to  
8 pesticide, active ingredient, or device production and distribution  
9 as required by the Board. The records of the producer shall be kept  
10 intact at the principal producing location in this state for at  
11 least two (2) years after the date of production and distribution  
12 and copies shall be furnished to any authorized agent of the Board,  
13 immediately upon request in person, at any time during the regular  
14 business hours of the producer. Copies of records shall be  
15 furnished to any authorized agent of the Board within seven (7)  
16 working days of a written request, in summary form, by mail, fax,  
17 email, website, or any other electronic media customarily used.

18 N. COMPLAINT RESOLUTION - Upon receipt of a written complaint,  
19 the Board shall notify the person filing the complaint in writing of  
20 its receipt and status within two (2) working days. The person whom  
21 the complaint is filed against shall also be notified within two (2)  
22 working days. Notification that a complaint has been filed may also  
23 be given to the landowner or operator when appropriate. The  
24 resolution of a complaint is the completion of the appropriate



1 administrative, jurisdictional, or legal remedies to the extent  
2 possible by the Department. The complainant shall be notified in  
3 writing within seven (7) working days after resolution of the  
4 complaint.

5 SECTION 2. AMENDATORY 63 O.S. 2021, Section 427.3, as  
6 last amended by Section 9, Chapter 553, O.S.L. 2021, is amended to  
7 read as follows:

8 Section 427.3. A. There is hereby created the Oklahoma Medical  
9 Marijuana Authority within the State Department of Health which  
10 shall address issues related to the medical marijuana program in  
11 Oklahoma including, but not limited to, the issuance of patient  
12 licenses and medical marijuana business licenses, and the  
13 dispensing, cultivating, processing, testing, transporting, storage,  
14 research, and the use of and sale of medical marijuana pursuant to  
15 the Oklahoma Medical Marijuana and Patient Protection Act.

16 B. The Department shall provide support staff to perform  
17 designated duties of the Authority. The Department shall also  
18 provide office space for meetings of the Authority.

19 C. The Department shall implement the provisions of the  
20 Oklahoma Medical Marijuana and Patient Protection Act consistently  
21 with the voter-approved State Question No. 788, Initiative Petition  
22 No. 412, subject to the provisions of the Oklahoma Medical Marijuana  
23 and Patient Protection Act.

1 D. The Department shall exercise its respective powers and  
2 perform its respective duties and functions as specified in the  
3 Oklahoma Medical Marijuana and Patient Protection Act and this title  
4 including, but not limited to, the following:

5 1. Determine steps the state shall take, whether administrative  
6 or legislative in nature, to ensure that research on marijuana and  
7 marijuana products is being conducted for public purposes, including  
8 the advancement of:

- 9 a. public health policy and public safety policy,  
10 b. agronomic and horticultural best practices, and  
11 c. medical and pharmacopoeia best practices;

12 2. Contract with third-party vendors and other governmental  
13 entities in order to carry out the respective duties and functions  
14 as specified in the Oklahoma Medical Marijuana and Patient  
15 Protection Act;

16 3. Upon complaint or upon its own motion and upon a completed  
17 investigation, levy fines as prescribed in applicable laws, rules  
18 and regulations and suspend, revoke or not renew licenses pursuant  
19 to applicable laws, rules and regulations;

20 4. Issue subpoenas for the appearance or production of persons,  
21 records and things in connection with disciplinary or contested  
22 cases considered by the Department;

23 5. Apply for injunctive or declaratory relief to enforce the  
24 provisions of applicable laws, rules and regulations;

1       6. Inspect and examine all licensed premises of medical  
2 marijuana businesses, research facilities, education facilities and  
3 waste disposal facilities in which medical marijuana is cultivated,  
4 manufactured, sold, stored, transported, tested, distributed or  
5 disposed of;

6       7. Upon action by the federal government by which the  
7 production, sale and use of marijuana in Oklahoma does not violate  
8 federal law, work with the Oklahoma State Banking Department and the  
9 State Treasurer to develop good practices and standards for banking  
10 and finance for medical marijuana businesses;

11       8. Establish internal control procedures for licenses including  
12 accounting procedures, reporting procedures and personnel policies;

13       9. Establish a fee schedule and collect fees for performing  
14 background checks as the Commissioner deems appropriate. The fees  
15 charged pursuant to this paragraph shall not exceed the actual cost  
16 incurred for each background check;

17       10. Establish a fee schedule and collect fees for material  
18 changes requested by the licensee; and

19       11. Establish regulations, which require a medical marijuana  
20 business to submit information to the Oklahoma Medical Marijuana  
21 Authority, deemed reasonably necessary to assist the Authority in  
22 the prevention of diversion of medical marijuana by a licensed  
23 medical marijuana business. Such information required by the  
24 Authority may include, but shall not be limited to:

- a. the square footage of the licensed premises,
- b. a diagram of the licensed premises,
- c. the number and type of lights at the licensed medical marijuana commercial grower business,
- d. the number, type and production capacity of equipment located at the medical marijuana processing facility,
- e. the names, addresses and telephone numbers of employees or agents of a medical marijuana business,
- f. employment manuals and standard operating procedures for the medical marijuana business, and
- g. any other information as the Authority reasonably deems necessary.

E. The Oklahoma Medical Marijuana Authority with the State Department of Health shall develop a market report to establish a real-time market value for marijuana plants and may base the evaluation on the following:

1. Previous reporting periods;
2. Total weight;
3. Total value;
4. Indoor cultivation;
5. Greenhouse cultivation; or
5. Outdoor cultivation.

F. The Authority shall promulgate the rules necessary to implement the provisions of subsection E of this section; provided,

1 that the market report shall be available to the public in a clear  
2 and concise format.

3 G. The Authority shall be authorized to provide grower  
4 information to the Oklahoma Department of Agriculture, Food, and  
5 Forestry to be added to the sensitive crop registry.

6 SECTION 3. This act shall become effective November 1, 2022.

7  
8 58-2-2771 MR 1/20/2022 6:21:50 PM  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25