

1 **SENATE FLOOR VERSION**

2 February 25, 2019

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 1030

By: Paxton

6  
7 [ medical marijuana - codification -  
8 emergency ]

9  
10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 63 O.S. 2011, Section 2-402, as  
12 last amended by Section 3, State Question No. 780, Initiative  
13 Petition No. 404 (63 O.S. Supp. 2018, Section 2-402), is amended to  
14 read as follows:

15 Section 2-402. A. 1. It shall be unlawful for any person  
16 knowingly or intentionally to possess a controlled dangerous  
17 substance unless such substance was obtained directly, or pursuant  
18 to a valid prescription or order from a practitioner, while acting  
19 in the course of his or her professional practice, or except as  
20 otherwise authorized by this act.

21 2. It shall be unlawful for any person to purchase any  
22 preparation excepted from the provisions of the Uniform Controlled  
23 Dangerous Substances Act pursuant to Section 2-313 of this title in  
24

1 an amount or within a time interval other than that permitted by  
2 Section 2-313 of this title.

3 3. It shall be unlawful for any person or business to sell,  
4 market, advertise or label any product containing ephedrine, its  
5 salts, optical isomers, or salts of optical isomers, for the  
6 indication of stimulation, mental alertness, weight loss, appetite  
7 control, muscle development, energy or other indication which is not  
8 approved by the pertinent federal OTC Final Monograph, Tentative  
9 Final Monograph, or FDA-approved new drug application or its legal  
10 equivalent. In determining compliance with this requirement, the  
11 following factors shall be considered:

- 12 a. the packaging of the product,
- 13 b. the name of the product, and
- 14 c. the distribution and promotion of the product,  
15 including verbal representations made at the point of  
16 sale.

17 B. Any person who ~~violates~~ is convicted of a violation of this  
18 section is shall be guilty of a misdemeanor punishable by  
19 ~~confinement for~~ imprisonment of not more than one (1) year and by a  
20 fine not ~~exceeding~~ to exceed One Thousand Dollars (\$1,000.00);  
21 provided, however, a person who is convicted of possession of one  
22 and a half (1 1/2) ounces of marijuana or less shall be punishable  
23 by a fine only not to exceed Four Hundred Dollars (\$400.00).

24

1 C. Any person convicted of any offense described in this  
2 section shall, in addition to any fine imposed, pay a special  
3 assessment trauma-care fee of One Hundred Dollars (\$100.00) to be  
4 deposited into the Trauma Care Assistance Revolving Fund created in  
5 Section 1-2530.9 of this title.

6 SECTION 2. AMENDATORY Provision No. 1, State Question  
7 No. 788, Initiative Petition No. 412 (63 O.S. Supp. 2018, Section  
8 420), is amended to read as follows:

9 Section 420. A. A person in possession of a state issued  
10 medical marijuana license shall be able to:

- 11 1. Consume marijuana legally;
- 12 2. Legally possess up to three (3) ounces of marijuana on their  
13 person;
- 14 3. Legally possess six (6) mature marijuana plants;
- 15 4. Legally possess six (6) seedling plants;
- 16 5. Legally possess one (1) ounce of concentrated marijuana;
- 17 6. Legally possess seventy-two (72) ounces of edible marijuana;
- 18 and
- 19 7. Legally possess up to eight (8) ounces of marijuana in their  
20 residence.

21 B. Possession of up to one and one-half (1.5) ounces of  
22 marijuana by persons who ~~can state a medical condition~~ have been  
23 issued a state issued medical marijuana license, but are not in  
24 possession of ~~a state issued medical marijuana license~~ such license

1 at the time, shall constitute a misdemeanor offense with a fine not  
2 to exceed Four Hundred Dollars (\$400.00).

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

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

15 E. A temporary license application ~~will~~ shall also be made  
16 available on the ~~Oklahoma~~ State Department of Health website. A  
17 temporary medical marijuana license ~~will~~ shall be granted to any  
18 medical marijuana license holder from other states, provided that  
19 the state has a state regulated medical marijuana program, and the  
20 applicant can prove they are a member of such program. Temporary  
21 licenses ~~will~~ shall be issued for thirty (30) days. The cost for a  
22 temporary license shall be One Hundred Dollars (\$100.00). Renewal  
23 ~~will~~ shall be granted with resubmission of a new application. No  
24 additional criteria ~~will~~ shall be required.

1 F. Medical marijuana license applicants ~~will~~ shall submit their  
2 application to the ~~Oklahoma~~ State Department of Health for approval  
3 ~~and that the applicant must.~~ The applicant shall be an Oklahoma  
4 state resident and shall prove residency by a valid driver's  
5 license, utility bills, or other accepted methods.

6 G. The ~~Oklahoma~~ State Department of Health shall review the  
7 medical marijuana application, ~~approve/reject~~ approve or reject the  
8 application, and mail the applicant's approval or rejection letter  
9 ~~(stating reasons for rejection),~~ stating any reasons for rejection,  
10 to the applicant within fourteen (14) days of receipt of the  
11 application. Approved applicants ~~will~~ shall be issued a medical  
12 marijuana license which ~~will~~ shall act as proof of their approved  
13 status. Applications may only be rejected based on the applicant  
14 not meeting stated criteria or improper completion of the  
15 application.

16 H. The ~~Oklahoma~~ State Department of Health ~~will only keep the~~  
17 ~~following records for each approved medical license:~~

- 18 1. ~~A digital photograph of the license holder;~~  
19 2. ~~The expiration date of the license;~~  
20 3. ~~The county where the card was issued; and~~  
21 4. ~~A unique 24 character identification number assigned to the~~  
22 license shall retain all information obtained from the application.

23 I. The State Department of Health ~~will~~ shall make available,  
24 both on its website, and through a telephone verification system, an

1 easy method to validate a medical marijuana license ~~holders~~ holder's  
2 authenticity by the unique ~~24-character~~ 24-character identifier.

3 J. The State Department of Health ~~will~~ shall ensure that all  
4 application records and information are sealed to protect the  
5 privacy of medical marijuana license applicants.

6 K. A caregiver license ~~will~~ shall be made available for  
7 qualified caregivers of a medical marijuana license holder who is  
8 homebound. The caregiver license ~~will~~ shall give the caregiver the  
9 same rights as the medical marijuana license holder. Applicants for  
10 a caregiver license ~~will~~ shall submit proof of the medical marijuana  
11 license holder's license status and homebound status, proof that  
12 they are the designee of the medical marijuana license holder, ~~must~~  
13 ~~submit~~ proof that the caregiver is age eighteen (18) or older, and  
14 ~~must-submit~~ proof the caregiver is an Oklahoma resident. This ~~will~~  
15 shall be the only criteria for a caregiver license.

16 L. All applicants ~~must~~ shall be eighteen (18) years or older.  
17 A special exception ~~will~~ shall be granted to an applicant under the  
18 age of eighteen (18), however these applications ~~must~~ shall be  
19 signed by two (2) physicians and the applicant's parent or legal  
20 guardian.

21 M. All applications for a medical marijuana license ~~must~~ shall  
22 be signed by an Oklahoma Board certified physician. There are no  
23 qualifying conditions. A medical marijuana license ~~must~~ shall be  
24 recommended according to the accepted standards a reasonable and

1 prudent physician would follow when recommending or approving any  
2 medication. No physician may be unduly stigmatized or harassed for  
3 signing a medical marijuana license application.

4 N. 1. Counties and cities may enact medical marijuana  
5 guidelines allowing medical marijuana license holders or caregivers  
6 to exceed the state limits set forth in subsection A of this  
7 section.

8 2. Municipalities may pass ordinances to restrict or prohibit  
9 the smoking or vaping of marijuana in any or all public places  
10 within city limits. For the purposes of this paragraph, "public  
11 place" means any location which is not private residential premises.

12 SECTION 3. AMENDATORY Provision No. 6, State Question  
13 No. 788, Initiative Petition No. 412 (63 O.S. Supp. 2018, Section  
14 425), is amended to read as follows:

15 Section 425. A. No school or landlord may refuse to enroll or  
16 lease to, as appropriate, and may not otherwise penalize a person  
17 solely for his or her status as a medical marijuana license holder,  
18 unless failing to do so would ~~imminently~~ cause the school or  
19 landlord the potential to lose a monetary or licensing related  
20 benefit under federal law or regulations.

21 B. 1. Unless a failure to do so would cause an employer the  
22 potential to ~~imminently~~ lose a monetary or licensing related benefit  
23 under federal law or regulations, an employer may not discriminate  
24 against a person in hiring, termination or imposing any term or

1 condition of employment or otherwise penalize a person based upon  
2 either:

3 ~~1. The~~ the person's status as a medical marijuana license  
4 holder; ~~or,~~ unless the person is employed in a safety-sensitive  
5 position.

6 2. Employers may take action against a holder of a medical  
7 marijuana license holder if the holder uses or possesses marijuana  
8 while in the holder's place of employment or during the hours of  
9 employment. Employers may not take action against the holder of a  
10 medical marijuana license solely based upon the status of an  
11 employee as a medical marijuana license holder or the results of a  
12 drug test showing positive for marijuana or its components, unless  
13 the person is employed in a safety-sensitive position.

14 3. For the purposes of this section, "safety-sensitive  
15 position" shall include, but not be limited to, the following types  
16 of tasks, duties or objectives:

- 17 a. the handling, packaging, processing, storage, disposal  
18 or transport of hazardous materials,
- 19 b. the operation of a motor vehicle, other vehicle,  
20 equipment, machinery or power tools,
- 21 c. repairing, maintaining or monitoring the performance  
22 or operation of any equipment, machinery or  
23 manufacturing process, the malfunction or disruption  
24 of which could result in injury or property damage,



- 1        d. performing duties in the residential or commercial  
2        premises of a customer, supplier or vendor,  
3        e. the operation, maintenance or oversight of critical  
4        services and infrastructure including, but not limited  
5        to, electric, gas and water utilities, power  
6        generation or distribution,  
7        f. the extraction, compression, processing,  
8        manufacturing, handling, packaging, storage, disposal,  
9        treatment or transport of potentially volatile,  
10       flammable, combustible materials, elements, chemicals  
11       or any other highly regulated component,  
12       g. preparing or handling food or medicine,  
13       h. law or code enforcement,  
14       i. employees required to carry a firearm,  
15       j. fire response or prevention,  
16       k. emergency medical services, or  
17       l. direct patient care or direct child care.

18       4. Nothing in this section shall prohibit any property or  
19       business owner from prohibiting the consumption, cultivation or  
20       possession of medical marijuana or medical marijuana products on the  
21       owner's property.

22       C. For the purposes of medical care, including organ  
23       transplants, a medical marijuana license holder's authorized use of  
24       marijuana ~~must~~ shall be considered the equivalent of the use of any

1 other medication under the direction of a physician and does not  
2 constitute the use of an illicit substance or otherwise disqualify a  
3 registered qualifying patient from medical care.

4 D. No medical marijuana license holder may be denied custody of  
5 or visitation or parenting time with a minor, and there is no  
6 presumption of neglect or child endangerment for conduct allowed  
7 under this law, unless the person's behavior creates an unreasonable  
8 danger to the safety of the minor.

9 E. No person holding a medical marijuana license may unduly be  
10 withheld from holding a state issued license by virtue of their  
11 being a medical marijuana license holder. ~~This would include such~~  
12 ~~things as~~ including but not limited to a concealed carry permit.

13 F. 1. No city or local municipality may unduly change or  
14 restrict zoning laws to prevent the opening of a retail marijuana  
15 establishment.

16 2. For purposes of this subsection, an undue change or  
17 restriction of municipal zoning laws means an act which entirely  
18 prevents marijuana establishments from operating within municipal  
19 boundaries as a matter of law. Municipalities may follow their  
20 standard planning and zoning procedures to define which zones or  
21 districts would be appropriate for locating medical marijuana  
22 dispensaries, growers and processors.

23 3. For purposes of this section, "retail marijuana  
24 establishment" means an entity licensed by the State Department of

1 Health as a medical marijuana dispensary. Retail marijuana  
2 establishment does not include those entities licensed by the  
3 Department as a grower or processor, or other facilities or  
4 locations where marijuana or any product containing marijuana or its  
5 byproducts is cultivated, grown, processed or manufactured.

6 G. The location of any ~~retail marijuana establishment~~  
7 dispensary is specifically prohibited within one thousand (1,000)  
8 feet ~~from~~ of any public or private school entrance.

9 H. Research ~~will~~ shall be provided for under this law. A  
10 researcher may apply to the ~~Oklahoma~~ State Department of Health for  
11 a special research license. ~~That license will~~ The license shall be  
12 granted, provided the applicant meets the criteria listed under  
13 ~~Section 421.B~~ subsection B of Section 421 of this title. Research  
14 license holders ~~will~~ shall be required to file monthly consumption  
15 reports to the ~~Oklahoma~~ State Department of Health with amounts of  
16 marijuana used for research.

17 SECTION 4. AMENDATORY Provision No. 7, State Question  
18 No. 788, Initiative Petition No. 412 (63 O.S. Supp. 2018, Section  
19 426), is amended to read as follows:

20 Section 426. A. ~~The~~ A sales tax on retail medical marijuana  
21 sales ~~will be established at~~ is hereby levied at the rate of seven  
22 percent (7%) of the gross ~~amount received by the seller~~ purchase  
23 price including cash, credit or other monetary consideration.

24

1 B. ~~This tax will~~ The tax shall be collected at the point of  
2 sale. Tax proceeds ~~will~~ shall be applied primarily to finance the  
3 regulatory office.

4 C. If proceeds from the levy authorized by subsection A of this  
5 section exceed the budgeted amount for running the regulatory  
6 office, any surplus shall be apportioned with seventy-five percent  
7 (75%) going to the General Revenue Fund and may only be expended for  
8 common education. Twenty-five percent (25%) shall be apportioned to  
9 the ~~Oklahoma~~ State Department of Health and earmarked for drug and  
10 alcohol rehabilitation.

11 D. Nothing in this act shall prohibit local governments from  
12 adding additional local sales taxes to medical marijuana  
13 transactions.

14 SECTION 5. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 427 of Title 63, unless there is  
16 created a duplication in numbering, reads as follows:

17 A. All licensure revocation hearings conducted pursuant to the  
18 penalties set forth in Sections 421, 422 and 423 of Title 63 of the  
19 Oklahoma Statutes shall be recorded. A party may request a copy of  
20 the recording of the proceedings. Copies shall be provided to local  
21 law enforcement if the revocation was based on alleged criminal  
22 activity.

23 B. The State Department of Health shall assist any law  
24 enforcement officer in the performance of his or her duties upon

1 such law enforcement officer's request or the request of other local  
2 officials having jurisdiction. The Department shall share  
3 information with law enforcement agencies upon request without a  
4 subpoena or search warrant.

5 C. The State Department of Health shall make available all  
6 information displayed on medical marijuana licenses, as well as  
7 whether or not the license is valid, to law enforcement  
8 electronically through the Oklahoma Law Enforcement  
9 Telecommunications System.

10 D. The Department shall make available a public list of medical  
11 marijuana retail, commercial cultivation, warehouse and processing  
12 locations to aid county and municipal governments to identify  
13 locations within their jurisdiction and ensure compliance with local  
14 regulations.

15 E. All applicants for a dispensary license, commercial grower  
16 license or processor license shall submit with their application,  
17 after notifying the political subdivision of their intent, a  
18 certificate of compliance from the political subdivision where the  
19 applicant's facility or use is to be located certifying compliance  
20 with zoning classifications, applicable municipal ordinances and all  
21 applicable safety, electrical, fire, plumbing, waste, construction  
22 and building specification codes.

23 F. In addition to all other standards applicable to the  
24 issuance of a license under this act, political subdivisions may

1 adopt regulations to protect the public health, safety or welfare  
2 which are subject to inspections and enforcement through local  
3 ordinances.

4 ~~SECTION 6. It being immediately necessary for the preservation~~  
5 ~~of the public peace, health or safety, an emergency is hereby~~  
6 ~~declared to exist, by reason whereof this act shall take effect and~~  
7 ~~be in full force from and after its passage and approval.~~

8 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES  
9 February 25, 2019 - DO PASS AS AMENDED

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