

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 SENATE BILL NO. 1030

By: Paxton of the Senate

and

6 Bush of the House

7
8
9 COMMITTEE SUBSTITUTE

10 [medical marijuana - codification -
11 ~~emergency~~]

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

14 SECTION 1. AMENDATORY Section 6, State Question No. 788,
15 Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 425), is
16 amended to read as follows:

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

23 B. Unless a failure to do so would cause an employer the
24 potential to ~~imminently~~ lose a monetary or licensing-related benefit

1 under federal law or regulations, an employer may not discriminate
2 against a person in hiring, termination or imposing any term or
3 condition of employment or otherwise penalize a person based upon
4 either:

5 1. The ~~person's~~ status of the person as a medical marijuana
6 license holder; or

7 2. Employers may take action against a holder of a medical
8 marijuana license ~~holder~~ if the holder uses or possesses marijuana
9 while in ~~the holder's~~ his or her place of employment or during the
10 hours of employment. Employers may not take action against the
11 holder of a medical marijuana license solely based upon the status
12 of an employee as a medical marijuana license holder or the results
13 of a drug test showing positive for marijuana or its components.

14 C. For the purposes of medical care, including organ
15 transplants, ~~a medical marijuana license holder's~~ the authorized use
16 of marijuana ~~must~~ by a medical marijuana license holder shall be
17 considered the equivalent of the use of any other medication under
18 the direction of a physician and does not constitute the use of an
19 illicit substance or otherwise disqualify a registered qualifying
20 patient from medical care.

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

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

7 F. 1. No city or local municipality may unduly change or
8 restrict zoning laws to prevent the opening of a retail marijuana
9 establishment.

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

19 3. For purposes of this section, "retail marijuana
20 establishment" means an entity licensed by the State Department of
21 Health as a medical marijuana dispensary. Retail marijuana
22 establishment does not include those other entities licensed by the
23 Department as marijuana-licensed premises, medical marijuana
24 businesses or other facilities or locations where marijuana or any

1 product containing marijuana or its by-products are cultivated,
2 grown, processed, stored or manufactured.

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

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

14 SECTION 2. 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 request by the law enforcement officer or the request of other
2 local 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 to political
11 subdivisions a list of marijuana-licensed premises, medical
12 marijuana businesses or any other premises where marijuana or its
13 by-products are licensed to be cultivated, grown, processed, stored
14 or manufactured to aid county and municipal governments to identify
15 locations within their jurisdiction and ensure compliance with local
16 regulations.

17 E. All marijuana-licensed premises, medical marijuana
18 businesses or any other premises where marijuana or its by-products
19 are licensed to be cultivated, grown, processed, stored or
20 manufactured shall submit with their application, after notifying
21 the political subdivision of their intent, a certificate of
22 compliance from the political subdivision where the facility of the
23 applicant or use is to be located certifying compliance with zoning
24 classifications, applicable municipal ordinances and all applicable

1 safety, electrical, fire, plumbing, waste, construction and building
2 specification codes.

3 SECTION 3. AMENDATORY Section 7 of Enrolled House Bill
4 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
5 amended to read as follows:

6 Section 7. A. The Oklahoma Medical Marijuana Authority shall
7 create a medical marijuana use registry of patients and caregivers
8 as provided under this section. The handling of any records
9 maintained in the registry shall comply with all relevant state and
10 federal laws including, but not limited to, the Health Insurance
11 Portability and Accountability Act of 1996 (HIPAA).

12 B. The medical marijuana use registry shall be accessible to:

13 1. Oklahoma-licensed medical marijuana dispensaries to verify
14 the license of a patient or caregiver by the twenty-four-character
15 identifier; and

16 2. Any court in this state.

17 C. All other records regarding a medical marijuana licensee
18 shall be maintained by the Authority and shall be deemed
19 confidential. The handling of any records maintained by the
20 Authority shall comply with all relevant state and federal laws
21 including, but not limited to, the Health Insurance Portability and
22 Accountability Act of 1996 (HIPAA). Such records shall be marked as
23 confidential, shall not be made available to the public and shall
24 only be made available to the licensee, designee of the licensee,

1 any physician of the licensee or the caregiver of the licensee. No
2 personally identifiable information, as defined under HIPAA, shall
3 be stored at the Department.

4 D. A log shall be kept with the file of the licensee to record
5 any event in which the records of the licensee were made available
6 and to whom the records were provided.

7 E. The Department shall ensure that all application records and
8 information are sealed to protect the privacy of medical marijuana
9 patient license applicants.

10 SECTION 4. AMENDATORY Section 14 of Enrolled House Bill
11 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
12 amended to read as follows:

13 Section 14. A. There is hereby created the medical marijuana
14 business license, which shall include the following categories:

- 15 1. Medical marijuana commercial grower;
- 16 2. Medical marijuana processor;
- 17 3. Medical marijuana dispensary;
- 18 4. Medical marijuana transporter; and
- 19 5. Medical marijuana testing laboratory.

20 B. The Authority, with the aid of the Office of Management and
21 Enterprise Services, shall develop a website for medical marijuana
22 business applications.

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1 C. The Authority shall make available on its website or the
2 website of the Oklahoma Medical Marijuana Authority in an easy-to-
3 find location, applications for a medical marijuana business.

4 D. The nonrefundable application fee for a medical marijuana
5 business license shall be Two Thousand Five Hundred Dollars
6 (\$2,500.00).

7 E. All applicants seeking licensure as a medical marijuana
8 business shall comply with the following general requirements:

9 1. All applications for licenses and registrations authorized
10 pursuant to this section shall be made upon forms prescribed by the
11 Authority;

12 2. Each application shall identify the city or county in which
13 the applicant seeks to obtain licensure as a medical marijuana
14 business;

15 3. Applicants shall submit a complete application to the
16 Department before the application may be accepted or considered;

17 4. All applications shall be complete and accurate in every
18 detail;

19 5. All applications shall include all attachments or
20 supplemental information required by the forms supplied by the
21 Authority;

22 6. All applications shall be accompanied by a full remittance
23 for the whole amount of the application fees. Application fees are
24 nonrefundable;

1 7. All applicants shall be approved for licensing review that,
2 at a minimum, meets the following criteria:

3 a. all applicants shall be age twenty-five (25) years of
4 age or older,

5 b. any applicant applying as an individual shall show
6 proof that the applicant is an Oklahoma resident
7 pursuant to paragraph 11 of this subsection,

8 c. any applicant applying as an entity shall show that
9 seventy-five percent (75%) of all members, managers,
10 executive officers, partners, board members or any
11 other form of business ownership are Oklahoma
12 residents pursuant to paragraph 11 of this subsection,

13 d. all applying individuals or entities shall be
14 registered to conduct business in the State of
15 Oklahoma,

16 e. all applicants shall disclose all ownership interests
17 pursuant to this act, and

18 f. applicants shall not have been convicted of a
19 nonviolent felony in the last two (2) years, and any
20 other felony conviction within the last five (5)
21 years, shall not be current inmates, or currently
22 incarcerated in a jail or corrections facility;

23 8. There shall be no limit to the number of medical marijuana
24 business licenses or categories that an individual or entity can

1 apply for or receive, although each application and each category
2 shall require a separate application and application fee. A
3 commercial grower, processor and dispensary, or any combination
4 thereof, are authorized to share the same address or physical
5 location, subject to the restrictions set forth in this act;

6 9. All applicants for a medical marijuana business license,
7 research facility license or education facility license authorized
8 by this act shall undergo an Oklahoma criminal history background
9 check conducted by the Oklahoma State Bureau of Investigation (OSBI)
10 within thirty (30) days prior to the application for the license,
11 including:

- 12 a. individual applicants applying on their own behalf,
- 13 b. individuals applying on behalf of an entity,
- 14 c. all principal officers of an entity, and
- 15 d. all owners of an entity as defined by this act;

16 10. All applicable fees charged by OSBI are the responsibility
17 of the applicant and shall not be higher than fees charged to any
18 other person or industry for such background checks;

19 11. In order to be considered an Oklahoma resident for purposes
20 of a medical marijuana business application, all applicants shall
21 provide proof of Oklahoma residency for at least two (2) years
22 immediately preceding the date of application or five (5) years of
23 continuous Oklahoma residency during the preceding twenty-five (25)
24 years immediately preceding the date of application. Sufficient

1 documentation of proof of residency shall include a combination of
2 the following:

- 3 a. an unexpired Oklahoma-issued driver license,
- 4 b. an Oklahoma voter identification card,
- 5 c. a utility bill preceding the date of application,
6 excluding cellular telephone and Internet bills,
- 7 d. a residential property deed to property in the State
8 of Oklahoma, and
- 9 e. a rental agreement preceding the date of application
10 for residential property located in the State of
11 Oklahoma;

12 12. All license applicants shall be required to submit a
13 registration with the Oklahoma State Bureau of Narcotics and
14 Dangerous Drugs Control as provided in Sections 2-202 through 2-204
15 of Title 63 of the Oklahoma Statutes;

16 13. All applicants shall establish their identity through
17 submission of a color copy or digital image of one of the following
18 unexpired documents:

- 19 a. front and back of an Oklahoma driver license,
- 20 b. front and back of an Oklahoma identification card,
- 21 c. a United States passport or other photo identification
22 issued by the United States government,

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1 d. certified copy of the applicant's birth certificate
2 for minor applicants who do not possess a document
3 listed in this section, or

4 e. a tribal identification card approved for
5 identification purposes by the Oklahoma Department of
6 Public Safety; and

7 14. All applicants shall submit an applicant photograph.

8 F. The Authority shall review the medical marijuana business
9 application, approve or reject the application and mail the
10 approval, rejection or status-update letter to the applicant within
11 ninety (90) days of receipt of the application.

12 G. 1. The Authority shall review the medical marijuana
13 business applications and conduct all investigations, inspections
14 and interviews before approving the application.

15 2. Approved applicants shall be issued a medical marijuana
16 business license for the specific category applied under which shall
17 act as proof of their approved status. Rejection letters shall
18 provide a reason for the rejection. Applications may only be
19 rejected based on the applicant not meeting the standards set forth
20 in the provisions of this section, improper completion of the
21 application, or for a reason provided for in this act. If an
22 application is rejected for failure to provide required information,
23 the applicant shall have thirty (30) days to submit the required
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1 information for reconsideration. No additional application fee
2 shall be charged for such reconsideration.

3 3. Status-update letters shall provide a reason for delay in
4 either approval or rejection should a situation arise in which an
5 application was submitted properly, but a delay in processing the
6 application occurred.

7 4. Approval, rejection or status-update letters shall be sent
8 to the applicant in the same method the application was submitted to
9 the Department.

10 ~~H. A license provided by this act or by Section 421, 422, 423~~
11 ~~or 425 of Title 63 of the Oklahoma Statutes shall not be issued~~
12 ~~until all relevant local licenses and permits have been issued by~~
13 ~~the municipality, including but not limited to an occupancy permit~~
14 ~~or certificate of compliance.~~

15 ~~I. In the event that an applicant has not received the~~
16 ~~necessary permits, certificates or licenses from a municipality, but~~
17 ~~the applicant has fulfilled all other obligations required by this~~
18 ~~act, the Authority shall grant a conditional license. A conditional~~
19 ~~license shall remain valid for a period of one (1) year or until the~~
20 ~~applicant obtains the necessary local permits, certificates or~~
21 ~~licenses. An applicant shall not transfer any medical marijuana,~~
22 ~~concentrate or products to a medical marijuana business, patient or~~
23 ~~caregiver until approval is received from the Authority.~~

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1 ~~+~~ A medical marijuana business license shall not be issued to
2 or held by:

3 1. A person until all required fees have been paid;

4 2. A person who has been convicted of a nonviolent felony
5 within two (2) years of the date of application, or within five (5)
6 years for any other felony;

7 3. A corporation, if the criminal history of any of its
8 officers, directors or stockholders indicates that the officer,
9 director or stockholder has been convicted of a nonviolent felony
10 within two (2) years of the date of application, or within five (5)
11 years for any other felony;

12 4. A person under twenty-five (25) years of age;

13 5. A person licensed pursuant to this section who, during a
14 period of licensure, or who, at the time of application, has failed
15 to:

16 a. file taxes, interest or penalties due related to a
17 medical marijuana business, or

18 b. pay taxes, interest or penalties due related to a
19 medical marijuana business;

20 6. A sheriff, deputy sheriff, police officer or prosecuting
21 officer, or an officer or employee of the Authority or municipality;

22 7. A person whose authority to be a caregiver as defined in
23 this act has been revoked by the Department; or

24 8. A publicly traded company.

1 ~~K.~~ I. In investigating the qualifications of an applicant or a
2 licensee, the Department, Authority and municipalities may have
3 access to criminal history record information furnished by a
4 criminal justice agency subject to any restrictions imposed by such
5 an agency. In the event the Department considers the criminal
6 history record of the applicant, the Department shall also consider
7 any information provided by the applicant regarding such criminal
8 history record, including but not limited to evidence of
9 rehabilitation, character references and educational achievements,
10 especially those items pertaining to the period of time between the
11 last criminal conviction of the applicant and the consideration of
12 the application for a state license.

13 ~~H.~~ J. The failure of an applicant to provide the requested
14 information by the Authority deadline may be grounds for denial of
15 the application.

16 ~~M.~~ K. All applicants shall submit information to the Department
17 and Authority in a full, faithful, truthful and fair manner. The
18 Department and Authority may recommend denial of an application
19 where the applicant made misstatements, omissions,
20 misrepresentations or untruths in the application or in connection
21 with the background investigation of the applicant. This type of
22 conduct may be considered as the basis for additional administrative
23 action against the applicant. Typos and scrivener errors shall not
24 be grounds for denial.

1 ~~N.~~ L. A licensed medical marijuana business premises shall be
2 subject to and responsible for compliance with applicable provisions
3 for medical marijuana business facilities as described in the most
4 recent versions of the Oklahoma Uniform Building Code, the
5 International Building Code and the International Fire Code, unless
6 granted an exemption by the Authority or municipality.

7 ~~O.~~ M. All medical marijuana business licensees shall pay the
8 relevant licensure fees prior to receiving licensure to operate a
9 medical marijuana business, as defined in this act for each class of
10 license.

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

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