

1 **SENATE FLOOR VERSION**

2 February 4, 2021

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1033

6 By: Leewright

7 An Act relating to medical marijuana; amending
8 Section 6, State Question No. 788, Initiative
9 Petition No. 412, as last amended by Section 46,
10 Chapter 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section
11 425), which relates to retail marijuana
12 establishments; construing provisions; adding
13 definition; amending Section 14, Chapter 11, O.S.L.
14 2019, as last amended by Section 51, Chapter 161,
15 O.S.L. 2020 (63 O.S. Supp. 2020, Section 427.14),
16 which relates to the Oklahoma Medical Marijuana and
17 Patient Protection Act; grandfathering certain
18 licensed location; allowing license transfer under
19 certain conditions; and providing an effective date.

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

21 SECTION 1. AMENDATORY Section No. 6, State Question No.
22 788, Initiative Petition No. 412, as last amended by Section 46,
23 Chapter 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section 425), is
24 amended to read as follows:

Section 425. A. No school or landlord may refuse to enroll or
lease to and may not otherwise penalize a person solely for his or
her status as a medical marijuana license holder, unless failing to
do so would cause the school or landlord the potential to lose a

1 monetary or licensing-related benefit under federal law or
2 regulations.

3 B. Unless a failure to do so would cause an employer the
4 potential to lose a monetary or licensing-related benefit under
5 federal law or regulations, an employer may not discriminate against
6 a person in hiring, termination or imposing any term or condition of
7 employment or otherwise penalize a person based upon either:

8 1. The status of the person as a medical marijuana license
9 holder; or

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

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

23 D. No medical marijuana license holder may be denied custody of
24 or visitation or parenting time with a minor, and there is no

1 presumption of neglect or child endangerment for conduct allowed
2 under this law, unless the behavior of the person creates an
3 unreasonable danger to the safety of the minor.

4 E. No person holding a medical marijuana license may unduly be
5 withheld from holding a state-issued license by virtue of their
6 being a medical marijuana license holder including, but not limited
7 to, a concealed carry permit.

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

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

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

1 businesses or other facilities or locations where marijuana or any
2 product containing marijuana or its by-products are cultivated,
3 grown, processed, stored or manufactured.

4 G. The Except as otherwise provided in this subsection, the
5 location of any retail marijuana establishment is specifically
6 prohibited within one thousand (1,000) feet of any public or private
7 school entrance. On and after November 1, 2019, if any public or
8 private school exists or is established within one thousand (1,000)
9 feet of any retail marijuana establishment after a license has been
10 issued by the Authority for that location, the prohibited distance
11 between properties shall not apply as long as the licensed property
12 is used for its stated purpose. The Authority shall not deny any
13 issuance or renewal of licensure, deny any transfer of licensure
14 pursuant to a change in ownership or revoke any license due to
15 mistake in measurement by the Authority or any change in public or
16 private school usage after an initial license has been issued at the
17 location. The licensed location shall be grandfathered by the
18 Authority upon initial licensure as long as the property is used in
19 accordance with the original licensed purpose. For purposes of this
20 subsection, "public or private school" means any nursery school,
21 preschool, elementary school, secondary school, college, university
22 or career or technical school.

23 H. Research shall be provided for under this law. A researcher
24 may apply to the State Department of Health for a special research

1 license. The license shall be granted, provided the applicant meets
2 the criteria listed under subsection B of Section 421 of this title.
3 Research license holders shall be required to file monthly
4 consumption reports to the State Department of Health with amounts
5 of marijuana used for research. Biomedical and clinical research
6 which is subject to federal regulations and institutional oversight
7 shall not be subject to State Department of Health oversight.

8 SECTION 2. AMENDATORY Section 14, Chapter 11, O.S.L.
9 2019, as last amended by Section 51, Chapter 161, O.S.L. 2020, (63
10 O.S. Supp. 2020, Section 427.14), is amended to read as follows:

11 Section 427.14. A. There is hereby created the medical
12 marijuana business license, which shall include the following
13 categories:

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

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

22 C. The Authority shall make available on its website in an
23 easy-to-find location, applications for a medical marijuana
24 business.

1 D. The nonrefundable application fee for a medical marijuana
2 business license shall be Two Thousand Five Hundred Dollars
3 (\$2,500.00).

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

6 1. All applications for licenses and registrations authorized
7 pursuant to this section shall be made upon forms prescribed by the
8 Authority;

9 2. Each application shall identify the city or county in which
10 the applicant seeks to obtain licensure as a medical marijuana
11 business;

12 3. Applicants shall submit a complete application to the
13 ~~Department~~ Authority before the application may be accepted or
14 considered;

15 4. All applications shall be complete and accurate in every
16 detail;

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

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

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

- 1 a. all applicants shall be age twenty-five (25) years of
2 age or older,
- 3 b. any applicant applying as an individual shall show
4 proof that the applicant is an Oklahoma resident
5 pursuant to paragraph 11 of this subsection,
- 6 c. any applicant applying as an entity shall show that
7 seventy-five percent (75%) of all members, managers,
8 executive officers, partners, board members or any
9 other form of business ownership are Oklahoma
10 residents pursuant to paragraph 11 of this subsection,
- 11 d. all applying individuals or entities shall be
12 registered to conduct business in ~~the State of~~
13 ~~Oklahoma~~ this state,
- 14 e. all applicants shall disclose all ownership interests
15 pursuant to ~~this act~~ the Oklahoma Medical Marijuana
16 and Patient Protection Act, and
- 17 f. applicants shall not have been convicted of a
18 nonviolent felony in the last two (2) years, and any
19 other felony conviction within the last five (5)
20 years, shall not be current inmates, or currently
21 incarcerated in a jail or corrections facility;

22 8. There shall be no limit to the number of medical marijuana
23 business licenses or categories that an individual or entity can
24 apply for or receive, although each application and each category

1 shall require a separate application and application fee. A
2 commercial grower, processor and dispensary, or any combination
3 thereof, are authorized to share the same address or physical
4 location, subject to the restrictions set forth in ~~this act~~ the
5 Oklahoma Medical Marijuana and Patient Protection Act;

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

- 13 a. individual applicants applying on their own behalf,
- 14 b. individuals applying on behalf of an entity,
- 15 c. all principal officers of an entity, and
- 16 d. all owners of an entity as defined by ~~this act~~ Section
17 427.2 of this title;

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

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

1 continuous Oklahoma residency during the preceding twenty-five (25)
2 years immediately preceding the date of application. Sufficient
3 documentation of proof of residency shall include a combination of
4 the following:

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

14 Applicants that were issued a medical marijuana business license
15 prior to the enactment of the Oklahoma Medical Marijuana and Patient
16 Protection Act are hereby exempt from the two-year or five-year
17 Oklahoma residence requirement mentioned above;

18 12. All license applicants shall be required to submit a
19 registration with the Oklahoma State Bureau of Narcotics and
20 Dangerous Drugs Control as provided in Sections 2-302 through 2-304
21 of ~~Title 63 of the Oklahoma Statutes~~ this title;

22 13. All applicants shall establish their identity through
23 submission of a color copy or digital image of one of the following
24 unexpired documents:

- a. front and back of an Oklahoma driver license,
- b. front and back of an Oklahoma identification card,
- c. a United States passport or other photo identification issued by the United States government,
- d. certified copy of the applicant's birth certificate for minor applicants who do not possess a document listed in this section, or
- e. a tribal identification card approved for identification purposes by the Oklahoma Department of Public Safety; and

14. All applicants shall submit an applicant photograph.

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

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

2. Approved applicants shall be issued a medical marijuana business license for the specific category applied under which shall act as proof of their approved status. Rejection letters shall provide a reason for the rejection. Applications may only be rejected based on the applicant not meeting the standards set forth in the provisions of this section, improper completion of the

1 application, or for a reason provided for in ~~this act~~ the Oklahoma
2 Medical Marijuana and Patient Protection Act. If an application is
3 rejected for failure to provide required information, the applicant
4 shall have thirty (30) days to submit the required information for
5 reconsideration. No additional application fee shall be charged for
6 such reconsideration.

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

11 4. Approval, rejection or status-update letters shall be sent
12 to the applicant in the same method the application was submitted to
13 the ~~Department~~ Authority.

14 H. A medical marijuana business license shall not be issued to
15 or held by:

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

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

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

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

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

5 a. file taxes, interest or penalties due related to a
6 medical marijuana business, or

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

9 6. A sheriff, deputy sheriff, police officer or prosecuting
10 officer, or an officer or employee of the Authority or municipality;
11 or

12 7. A person whose authority to be a caregiver as defined in
13 ~~this act~~ the Oklahoma Medical Marijuana and Patient Protection Act
14 has been revoked by the ~~Department~~ Authority.

15 I. In investigating the qualifications of an applicant or a
16 licensee, the ~~Department~~, Authority and municipalities may have
17 access to criminal history record information furnished by a
18 criminal justice agency subject to any restrictions imposed by such
19 an agency. In the event the ~~Department~~ Authority considers the
20 criminal history record of the applicant, the ~~Department~~ Authority
21 shall also consider any information provided by the applicant
22 regarding such criminal history record, including but not limited to
23 evidence of rehabilitation, character references and educational
24 achievements, especially those items pertaining to the period of

1 time between the last criminal conviction of the applicant and the
2 consideration of the application for a state license.

3 J. The failure of an applicant to provide the requested
4 information by the Authority deadline may be grounds for denial of
5 the application.

6 K. All applicants shall submit information to the ~~Department~~
7 ~~and~~ Authority in a full, faithful, truthful and fair manner. The
8 ~~Department and~~ Authority may recommend denial of an application
9 where the applicant made misstatements, omissions,
10 misrepresentations or untruths in the application or in connection
11 with the background investigation of the applicant. This type of
12 conduct may be considered as the basis for additional administrative
13 action against the applicant. Typos and scrivener errors shall not
14 be grounds for denial.

15 L. A licensed medical marijuana business premises shall be
16 subject to and responsible for compliance with applicable provisions
17 for medical marijuana business facilities as described in the most
18 recent versions of the Oklahoma Uniform Building Code, the
19 International Building Code and the International Fire Code, unless
20 granted an exemption by the Authority or municipality.

21 M. All medical marijuana business licensees shall pay the
22 relevant licensure fees prior to receiving licensure to operate a
23 medical marijuana business, as defined in ~~this act~~ the Oklahoma
24

1 Medical Marijuana and Patient Protection Act for each class of
2 license.

3 N. Any original license issued on or after November 1, 2019, by
4 the Authority, for a medical marijuana commercial grower, a medical
5 marijuana processor or a medical marijuana dispensary shall be
6 deemed to have been vested on the date the original license was
7 first issued for purposes of determining the location and authority
8 of any business to conduct and continue the same type of business
9 under a license issued by the Authority. Any change in ownership
10 after the original licensure has been issued by the Authority shall
11 be construed by the Authority to be a continuation of the same type
12 of business originally licensed at such location. Nothing shall
13 authorize the Authority to deny issuance of any new license, license
14 renewal or transfer of license due to a change in ownership for the
15 same business location previously licensed, except when a revocation
16 has been adjudicated for a violation of the Oklahoma Medical
17 Marijuana and Patient Protection Act.

18 SECTION 3. This act shall become effective November 1, 2021.

19 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
20 February 4, 2021 - DO PASS AS AMENDED

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