

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 959

By: Stephens

AS INTRODUCED

An Act relating to medical marijuana; amending 63 O.S. 2021, Section 427.17, as last amended by Section 1, Chapter 353, O.S.L. 2022 (63 O.S. Supp. 2022, Section 427.17), which relates to medical marijuana testing laboratory license; allowing the Oklahoma Medical Marijuana Authority to employ full-time, on-site inspectors; providing for duties; prohibiting certain time frame of service; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.17, as last amended by Section 1, Chapter 353, O.S.L. 2022 (63 O.S. Supp. 2022, Section 427.17), is amended to read as follows:

Section 427.17. A. There is hereby created a medical marijuana testing laboratory license as a category of the medical marijuana business license. The Oklahoma Medical Marijuana Authority is hereby enabled to monitor, inspect and audit a licensed testing laboratory under the Oklahoma Medical Marijuana and Patient Protection Act.

B. 1. The Authority is hereby authorized to contract with a private laboratory for the purpose of conducting compliance testing

1 of medical marijuana testing laboratories licensed in this state.  
2 Any such laboratory under contract for compliance testing shall be  
3 prohibited from conducting any other commercial medical marijuana  
4 testing in this state. The laboratory the Authority contracts with  
5 for compliance testing shall not employ, or be owned by, the  
6 following:

- 7 a. any individual that has a direct or indirect interest  
8 in a licensed medical marijuana business, or
- 9 b. any individual or his or her spouse, parent, child,  
10 spouse of a child, sibling or spouse of a sibling that  
11 has an application for a medical marijuana business  
12 license pending before the Authority or is a member of  
13 the board of directors of a medical marijuana  
14 business, or is an individual financially interested  
15 in any licensee or medical marijuana business located  
16 within this state.

17 2. The private laboratory under contract with the Authority for  
18 compliance testing and a board or committee comprised of licensed  
19 Oklahoma medical marijuana laboratories currently accredited by the  
20 International Organization for Standardization (ISO) shall provide  
21 to the Authority its recommendations for all equipment and standards  
22 to be utilized by licensed medical marijuana testing laboratories  
23 when testing samples of medical marijuana, medical marijuana  
24 concentrate, and medical marijuana products as well as standard

1 operating procedures when extracting and testing medical marijuana,  
2 medical marijuana concentrate, and medical marijuana products. The  
3 recommendations shall be submitted to the Authority no later than  
4 June 1, 2023. The Authority shall have ninety (90) days from the  
5 date it receives the recommendations to promulgate new rules or  
6 modify its current rules for laboratory standards and testing.  
7 Beginning June 1, 2024, medical marijuana testing laboratories  
8 renewing their medical marijuana business license shall be subject  
9 to and comply with any new or modified rules relating to the testing  
10 of medical marijuana, medical marijuana concentrate, and medical  
11 marijuana products. The refusal or failure of a medical marijuana  
12 testing laboratory licensee to comply with new or modified rules  
13 relating to laboratory standards and testing procedures promulgated  
14 under the provisions of this paragraph shall result in the permanent  
15 revocation of the medical marijuana testing laboratory license.

16 C. The Authority shall develop acceptable testing practices  
17 including, but not limited to, testing, standards, quality control  
18 analysis, equipment certification and calibration, and chemical  
19 identification and substances used.

20 D. A person who is a direct beneficial owner of a medical  
21 marijuana dispensary, medical marijuana commercial grower or medical  
22 marijuana processor shall not be an owner of a laboratory.  
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1 E. A laboratory and a laboratory applicant shall comply with  
2 all applicable local ordinances including, but not limited to,  
3 zoning, occupancy, licensing and building codes.

4 F. A separate license shall be required for each specific  
5 laboratory.

6 G. A medical marijuana testing laboratory license may be issued  
7 to a person who performs testing on medical marijuana and medical  
8 marijuana products for medical marijuana businesses, medical  
9 marijuana research facilities, medical marijuana education  
10 facilities, and testing on marijuana and marijuana products grown or  
11 produced by a patient or caregiver on behalf of a patient, upon  
12 verification of registration. A medical marijuana testing  
13 laboratory may also conduct research related to the development and  
14 improvement of its testing practices and procedures. No state-  
15 approved medical marijuana testing facility shall operate unless a  
16 medical laboratory director is on site during operational hours.

17 H. Laboratory applicants and licensees shall comply with the  
18 application requirements of this section and shall submit such other  
19 information as required for a medical marijuana business applicant,  
20 in addition to any information the Authority may request for initial  
21 approval and periodic evaluations during the approval period.

22 I. A medical marijuana testing laboratory may accept samples of  
23 medical marijuana, medical marijuana concentrate or medical  
24 marijuana product from a medical marijuana business, medical

1 marijuana research facility or medical marijuana education facility  
2 for testing purposes only, which purposes may include the provision  
3 of testing services for samples submitted by a medical marijuana  
4 business for product development. The Authority may require a  
5 medical marijuana business to submit a sample of medical marijuana,  
6 medical marijuana concentrate or medical marijuana product to a  
7 medical marijuana testing or quality assurance laboratory upon  
8 demand.

9 J. A medical marijuana testing laboratory may accept samples of  
10 medical marijuana, medical marijuana concentrate or medical  
11 marijuana product from an individual person for testing only under  
12 the following conditions:

13 1. The individual person is a patient or caregiver pursuant to  
14 the Oklahoma Medical Marijuana and Patient Protection Act or is a  
15 participant in an approved clinical or observational study conducted  
16 by a research facility; and

17 2. The medical marijuana testing laboratory shall require the  
18 patient or caregiver to produce a valid patient license and current  
19 and valid photo identification.

20 K. A medical marijuana testing laboratory may transfer samples  
21 to another medical marijuana testing laboratory for testing. All  
22 laboratory reports provided to or by a medical marijuana business or  
23 to a patient or caregiver shall identify the medical marijuana  
24 testing laboratory that actually conducted the test.

1 L. A medical marijuana testing laboratory may utilize a  
2 licensed medical marijuana transporter to transport samples of  
3 medical marijuana, medical marijuana concentrate and medical  
4 marijuana product for testing, in accordance with the Oklahoma  
5 Medical Marijuana and Patient Protection Act and the rules adopted  
6 pursuant thereto, between the originating medical marijuana business  
7 requesting testing services and the destination laboratory  
8 performing testing services.

9 M. The medical marijuana testing laboratory shall establish  
10 policies to prevent the existence of or appearance of undue  
11 commercial, financial or other influences that may diminish the  
12 competency, impartiality and integrity of the testing processes or  
13 results of the laboratory, or that may diminish public confidence in  
14 the competency, impartiality and integrity of the testing processes  
15 or results of the laboratory. At a minimum, employees, owners or  
16 agents of a medical marijuana testing laboratory who participate in  
17 any aspect of the analysis and results of a sample are prohibited  
18 from improperly influencing the testing process, improperly  
19 manipulating data or improperly benefiting from any ongoing  
20 financial, employment, personal or business relationship with the  
21 medical marijuana business that provided the sample. A medical  
22 marijuana testing laboratory shall not test samples for any medical  
23 marijuana business in which an owner, employee or agent of the  
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1 medical marijuana testing laboratory has any form of ownership or  
2 financial interest in the medical marijuana business.

3 N. The Authority, pursuant to rules promulgated by the  
4 Executive Director of the Authority, shall develop standards,  
5 policies and procedures as necessary for:

6 1. The cleanliness and orderliness of a laboratory premises and  
7 the location of the laboratory in a secure location, and inspection,  
8 cleaning and maintenance of any equipment or utensils used for the  
9 analysis of test samples;

10 2. Testing procedures, testing standards for cannabinoid and  
11 terpenoid potency and safe levels of contaminants, and remediation  
12 procedures;

13 3. Controlled access areas for storage of medical marijuana and  
14 medical marijuana product test samples, waste and reference  
15 standards;

16 4. Records to be retained and computer systems to be utilized  
17 by the laboratory;

18 5. The possession, storage and use by the laboratory of  
19 reagents, solutions and reference standards;

20 6. A certificate of analysis (COA) for each lot of reference  
21 standard;

22 7. The transport and disposal of unused marijuana, marijuana  
23 products and waste;

1           8. The mandatory use by a laboratory of an inventory tracking  
2 system to ensure all harvest and production batches or samples  
3 containing medical marijuana, medical marijuana concentrate or  
4 medical marijuana products are identified and tracked from the point  
5 they are transferred from a medical marijuana business, a patient or  
6 a caregiver through the point of transfer, destruction or disposal.  
7 The inventory tracking system reporting shall include the results of  
8 any tests that are conducted on medical marijuana, medical marijuana  
9 concentrate or medical marijuana product;

10           9. Standards of performance;

11           10. The employment of laboratory personnel;

12           11. A written standard operating procedure manual to be  
13 maintained and updated by the laboratory;

14           12. The successful participation in a proficiency testing  
15 program approved by the Executive Director for each testing category  
16 listed in this section, in order to obtain and maintain  
17 certification;

18           13. The establishment of and adherence to a quality assurance  
19 and quality control program to ensure sufficient monitoring of  
20 laboratory processes and quality of results reported;

21           14. The immediate recall of medical marijuana or medical  
22 marijuana products that test above allowable thresholds or are  
23 otherwise determined to be unsafe;



1 15. The establishment by the laboratory of a system to document  
2 the complete chain of custody for samples from receipt through  
3 disposal;

4 16. The establishment by the laboratory of a system to retain  
5 and maintain all required records, including business records, and  
6 processes to ensure results are reported in a timely and accurate  
7 manner; ~~and~~

8 17. Any other aspect of laboratory testing of medical marijuana  
9 or medical marijuana product deemed necessary by the Executive  
10 Director; and

11 18. The establishment of full-time, on-site inspectors.

12 O. A medical marijuana testing laboratory shall promptly  
13 provide the Authority or designee of the Authority access to a  
14 report of a test and any underlying data that is conducted on a  
15 sample at the request of a medical marijuana business or qualified  
16 patient. A medical marijuana testing laboratory shall also provide  
17 access to the Authority or designee of the Authority to laboratory  
18 premises and to any material or information requested by the  
19 Authority to determine compliance with the requirements of this  
20 section.

21 P. A medical marijuana testing laboratory shall retain all  
22 results of laboratory tests conducted on marijuana or products for a  
23 period of at least seven (7) years and shall make them available to  
24 the Authority upon request.

1 Q. A medical marijuana testing laboratory shall test samples  
2 from each harvest batch or product batch, as appropriate, of medical  
3 marijuana, medical marijuana concentrate and medical marijuana  
4 product for each of the following categories of testing, consistent  
5 with standards developed by the Executive Director:

- 6 1. Microbials;
- 7 2. Mycotoxins;
- 8 3. Residual solvents;
- 9 4. Pesticides;
- 10 5. Tetrahydrocannabinol (THC) and other cannabinoid potency;
- 11 6. Terpenoid type and concentration; and
- 12 7. Heavy metals.

13 R. A licensed medical marijuana testing laboratory shall test  
14 each individual harvest batch. A grower shall separate each harvest  
15 lot of usable marijuana into harvest batches containing no more than  
16 fifteen (15) pounds, with the exception of any plant material to be  
17 sold to a licensed processor for the purposes of turning the plant  
18 material into concentrate which may be separated into harvest  
19 batches of no more than fifty (50) pounds. A processor shall  
20 separate each medical marijuana production lot into production  
21 batches containing no more than four (4) liters of concentrate or  
22 nine (9) pounds for nonliquid products, and for final products, the  
23 Oklahoma Medical Marijuana Authority shall be authorized to  
24 promulgate rules on final products as necessary. Provided, however,

1 the Authority shall not require testing of final products less often  
2 than every one thousand (1,000) grams of THC. As used in this  
3 subsection, "final products" shall include, but not be limited to,  
4 cookies, brownies, candies, gummies, beverages and chocolates.

5 S. Medical marijuana testing laboratory licensure shall be  
6 contingent upon successful on-site inspection, successful  
7 participation in proficiency testing and ongoing compliance with the  
8 applicable requirements in this section.

9 T. A medical marijuana testing laboratory shall be inspected  
10 prior to initial licensure and up to two (2) times per year  
11 thereafter by an inspector approved by the Authority. The Authority  
12 may enter the licensed premises of a testing laboratory to conduct  
13 investigations and additional inspections when the Authority  
14 believes an investigation or additional inspection is necessary due  
15 to a possible violation of applicable laws, rules or regulations.

16 U. Medical marijuana testing laboratories shall obtain  
17 accreditation by an accrediting body approved by the Executive  
18 Director within one (1) year of the date the initial license is  
19 issued. Renewal of any medical marijuana testing laboratory license  
20 shall be contingent upon accreditation in accordance with this  
21 subsection. All medical marijuana testing laboratories shall obtain  
22 accreditation prior to applying for and receiving a medical  
23 marijuana testing laboratory license.

1 V. Unless authorized by the provisions of this section, a  
2 commercial grower shall not transfer or sell medical marijuana and a  
3 processor shall not transfer, sell or process into a concentrate or  
4 product any medical marijuana, medical marijuana concentrate or  
5 medical marijuana product unless samples from each harvest batch or  
6 production batch from which that medical marijuana, medical  
7 marijuana concentrate or medical marijuana product was derived has  
8 been tested by a medical marijuana testing laboratory and passed all  
9 contaminant tests required by the Oklahoma Medical Marijuana and  
10 Patient Protection Act and applicable laws, rules and regulations.  
11 A licensed commercial grower may transfer medical marijuana that has  
12 failed testing to a licensed processor only for the purposes of  
13 decontamination or remediation and only in accordance with the  
14 provisions of the Oklahoma Medical Marijuana and Patient Protection  
15 Act and the rules and regulations promulgated by the Executive  
16 Director. Remediated and decontaminated medical marijuana may be  
17 returned only to the originating licensed commercial grower.

18 W. Kief shall not be transferred or sold except as authorized  
19 in the rules and regulations promulgated by the Executive Director.

20 X. After the effective date of this act, the Authority shall  
21 require a full-time, on-site inspector to be present in every  
22 licensed marijuana testing laboratory in the state to prescribe the  
23 rules and regulations of testing as required by this section, which  
24 licensed laboratories shall maintain for licensure. Where

1 conditions of any licensed laboratories are such that the marijuana  
2 or marijuana products are rendered contaminated, the inspector shall  
3 refuse to allow the marijuana and marijuana products to be labeled,  
4 marked, stamped, or tagged as certified, and the Authority may open  
5 investigation into the testing procedures of the offending licensed  
6 marijuana business as provided in this section. No licensed  
7 inspector shall serve in a licensed testing laboratory more than  
8 thirty (30) days.

9 SECTION 2. This act shall become effective November 1, 2023.

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