

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2614 By: Echols of the House
3
and
4
McCortney of the Senate
5
6

7 An Act relating to marijuana; amending Section 1,
8 State Question No. 788, Petition No. 412 (63 O.S.
9 Supp. 2018, Section 420), which relates to medical
10 marijuana licensing requirements and restrictions;
*** the Uniform Controlled Dangerous Substances Act;
providing separate penalty for possession of
marijuana; and declaring an emergency.

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12
13 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

14
15 "An Act relating to medical marijuana; amending
16 Section 1, State Question No. 788, Initiative
Petition No. 412 (63 O.S. Supp. 2018, Section 420),
17 which relates to medical marijuana license; requiring
physical examination prior to issuance of medical
18 marijuana recommendation; prescribing penalties for
certain crimes; amending Section 18 of Enrolled House
19 Bill No. 2612 of the 1st Session of the 57th Oklahoma
Legislature, which relates to packaging and labeling;
20 adding certain requirements and restrictions related
to packaging; amending Section 21 of Enrolled House
21 Bill No. 2612 of the 1st Session of the 57th Oklahoma
Legislature, which relates to advertising; modifying
certain restrictions on advertising; and declaring an
22 emergency.
23
24

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

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

5 Section 420. A. A person in possession of a ~~state-issued~~
6 state-issued medical marijuana license shall be able to:

7 1. Consume marijuana legally;

8 2. Legally possess up to three (3) ounces of marijuana on their
9 person;

10 3. Legally possess six (6) mature marijuana plants;

11 4. Legally possess six (6) seedling plants;

12 5. Legally possess one (1) ounce of concentrated marijuana;

13 6. Legally possess seventy-two (72) ounces of edible marijuana;

14 and

15 7. Legally possess up to eight (8) ounces of marijuana in their
16 residence.

17 B. Possession of up to one and one-half (1.5) ounces of
18 marijuana by persons who can state a medical condition, but are not
19 in possession of a ~~state-issued~~ state-issued medical marijuana
20 license, shall constitute a misdemeanor offense with a fine not to
21 exceed Four Hundred Dollars (\$400.00).

22 C. A regulatory office shall be established under the ~~Oklahoma~~
23 State Department of Health which ~~will~~ shall receive applications for
24

1 medical marijuana license recipients, dispensaries, growers, and
2 packagers within sixty (60) days of the passage of this initiative.

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

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

21 F. Medical marijuana license applicants ~~will~~ shall submit their
22 application to the ~~Oklahoma~~ State Department of Health for approval
23 ~~and that the applicant must.~~ The applicant shall be an Oklahoma
24

1 state resident and shall prove residency by a valid driver's
2 license, utility bills, or other accepted methods.

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

13 H. The ~~Oklahoma~~ State Department of Health ~~will~~ shall only keep
14 the following records for each approved medical marijuana license:

- 15 1. A digital photograph of the license holder;
- 16 2. The expiration date of the license;
- 17 3. The county where the card was issued; and
- 18 4. A unique ~~24-character~~ 24-character identification number
19 assigned to the license.

20 I. The State Department of Health ~~will~~ shall make available,
21 both on its website, and through a telephone verification system, an
22 easy method to validate a medical marijuana license ~~holders~~ holder's
23 authenticity by the unique ~~24-character~~ 24-character identifier.

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

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

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

19 M. All applications for a medical marijuana license ~~must~~ shall
20 be signed by an Oklahoma ~~Board-certified~~ physician. There are no
21 qualifying conditions. Before issuing a medical marijuana
22 recommendation, a physician must first conduct a physical
23 examination while physically present in the same room as the patient
24 and a full assessment of the medical history of the patient. The

1 physical examination shall not be performed by remote means
2 including, but not limited to, telemedicine. A medical marijuana
3 license ~~must~~ shall be recommended according to the accepted
4 standards a reasonable and prudent physician would follow when
5 recommending or approving any medication. No physician may be
6 unduly stigmatized or harassed for signing a medical marijuana
7 license application.

8 N. Counties and cities may enact medical marijuana guidelines
9 allowing medical marijuana license holders or caregivers to exceed
10 the state limits set forth in subsection A of this section.

11 O. Any person who violates any provision of this act by
12 creating, possessing or using a counterfeit medical marijuana
13 license shall be guilty of a misdemeanor, and upon conviction shall
14 be subject to imprisonment in the county jail for not more than one
15 (1) year or by a fine of not more than Five Hundred Dollars
16 (\$500.00), or by both such imprisonment and fine.

17 P. Any person who intentionally and falsely assumes the
18 identity of another, and in such assumed character uses a medical
19 marijuana license that has been licensed to the individual so
20 personated, shall be guilty of a misdemeanor, and upon conviction
21 shall be subject to imprisonment in the county jail for not more
22 than one (1) year or by a fine of not more than Five Hundred Dollars
23 (\$500.00), or by both such imprisonment and fine.

1 SECTION 2. AMENDATORY Section 18 of Enrolled House Bill
2 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
3 amended to read as follows:

4 Section 18. A. An Oklahoma medical marijuana business shall
5 not sell, transfer or otherwise distribute medical marijuana or
6 medical marijuana product that has not been packaged and labeled in
7 accordance with this section and rules promulgated by the State
8 Commissioner of Health.

9 B. A medical marijuana dispensary shall return medical
10 marijuana and medical marijuana product that does not meet packaging
11 or labeling requirements in this section or rules promulgated
12 pursuant thereto to the entity who transferred it to the dispensary.
13 The medical marijuana dispensary shall document to whom the item was
14 returned, what was returned and the date of the return or dispose of
15 any usable marijuana that does not meet these requirements in
16 accordance with this act.

17 C. 1. Medical marijuana packaging shall be packaged to
18 minimize its appeal to children and shall not depict shapes, text or
19 designs appealing to children including, but not limited to,
20 cartoons, or any images other than the business name logo of the
21 medical marijuana producer and image of the product.

22 2. ~~A medical marijuana business shall not place any content on~~
23 ~~a container in a manner that reasonably appears to target~~
24

~~individuals under the age of twenty one (21), including but not limited to cartoon characters or similar images.~~

~~3.~~ Labels on a container shall not include any false or misleading statements.

~~4.~~ 3. No container shall be intentionally or knowingly labeled so as to cause a reasonable patient confusion as to whether the medical marijuana, medical marijuana concentrate or medical marijuana product is a trademarked product or labeled in a manner that violates any federal trademark law or regulation. Medical marijuana packaging shall not bear a reasonable resemblance to any commercially available product.

~~5.~~ 4. The label on the container shall not make any claims regarding health or physical benefits to the patient.

~~6.~~ 5. All medical marijuana, medical marijuana concentrate and medical marijuana products shall be in a child-resistant container or child-resistant packaging as required by the federal Poison Prevention Packaging Act of 1970 at the point of transfer to the patient or caregiver.

D. The State Department of Health shall develop minimum standards for packaging and labeling of medical marijuana and medical marijuana products. Such standards shall include, but not be limited to, the required contents of labels to be affixed to all medical marijuana and medical marijuana products prior to transfer

1 to a licensed patient or caregiver, which shall include, at a
2 minimum:

3 1. A universal symbol indicating that the product contains
4 tetrahydrocannabinol (THC);

5 2. THC and other cannabinoid potency, and terpenoid potency;

6 3. A statement indicating that the product has been tested for
7 contaminants;

8 4. One or more product warnings to be determined by the
9 Department; and

10 5. Any other information the Department deems necessary.

11 E. Medical marijuana and medical marijuana product packages
12 shall:

13 1. Be plain;

14 2. Be opaque;

15 3. Be designed to maximize the shelf life of contained medical
16 marijuana products;

17 4. Be tamper-evident; and

18 5. Protect the product from contamination and shall not impart
19 any toxic or deleterious substance to the product.

20 SECTION 3. AMENDATORY Section 21 of Enrolled House Bill
21 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
22 amended to read as follows:

23 Section 21. A. A medical marijuana business shall not engage
24 in advertising that is deceptive, false or misleading.

1 B. ~~A medical marijuana business shall not include in any form~~
2 ~~of advertising or signage any content that specifically targets~~
3 ~~individuals under the age of eighteen (18), including but not~~
4 ~~limited to cartoon characters or similar images~~

5 Medical marijuana advertising shall not contain any statement or
6 illustration that:

7 1. Promotes overconsumption;

8 2. Represents that the use of marijuana has curative or
9 therapeutic effects; or

10 3. Depicts a child or other person under legal age to consume
11 marijuana, or includes:

12 a. objects such as toys, cartoon or other characters,
13 which suggest the presence of a child, or any other
14 depiction designed in any manner to be especially
15 appealing to children or other persons under legal age
16 to consume marijuana, or

17 b. any manner or design that would be especially
18 appealing to children or other persons under eighteen
19 (18) years of age.

20 SECTION 4. It being immediately necessary for the preservation
21 of the public peace, health or safety, an emergency is hereby
22 declared to exist, by reason whereof this act shall take effect and
23 be in full force from and after its passage and approval."
24

1 Passed the Senate the 25th day of April, 2019.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2019.

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8 _____
9 Presiding Officer of the House
10 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2614

By: Echols of the House

and

McCortney of the Senate

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7 An Act relating to marijuana; amending Section 1,
8 State Question No. 788, Petition No. 412 (63 O.S.
9 Supp. 2018, Section 420), which relates to medical
10 marijuana licensing requirements and restrictions;
11 modifying penalty for certain unlawful act; providing
12 for revocation of medical marijuana license under
13 certain circumstances; defining term; providing for
14 exercise of certain duties and powers by the Oklahoma
15 State Department of Health; amending 63 O.S. 2011,
16 Section 2-402, as last amended by Section 3, State
17 Question No. 780, Petition No. 404 (63 O.S. Supp.
18 2018, Section 2-402), which relates to the Uniform
19 Controlled Dangerous Substances Act; providing
20 separate penalty for possession of marijuana; and
21 declaring an emergency.

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

23 SECTION 5. AMENDATORY Section 1, State Question No. 788,
24 Petition No. 412 (63 O.S. Supp. 2018, Section 420), is amended to
read as follows:

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

1. Consume marijuana legally;

1 2. Legally possess up to three (3) ounces of marijuana on their
2 person;

3 3. Legally possess six (6) mature marijuana plants;

4 4. Legally possess six (6) seedling plants;

5 5. Legally possess one (1) ounce of concentrated marijuana;

6 6. Legally possess seventy-two (72) ounces of edible marijuana;

7 and

8 7. Legally possess up to eight (8) ounces of marijuana in their
9 residence.

10 B. ~~Possession~~ Any person in possession of up to one and one-
11 half (1.5) ounces of marijuana ~~by persons~~ who can state a medical
12 condition, but who is not in possession of a state-issued medical
13 marijuana license, shall ~~constitute a misdemeanor offense with a~~
14 ~~fine~~ be issued a citation for an amount not to exceed Four Hundred
15 Dollars (\$400.00).

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

20 D. The Oklahoma State Department of Health shall within thirty
21 (30) days of passage of this initiative, make available, on their
22 website, in an easy-to-find location, an application for a medical
23 marijuana license. The license will be good for two (2) years, and
24 the application fee will be One Hundred Dollars (\$100.00), or Twenty

1 Dollars (\$20.00) for individuals on Medicaid, Medicare, or
2 SoonerCare. The methods of payment will be provided on the website.

3 E. A temporary license application will also be available on
4 the Oklahoma Department of Health website. A temporary medical
5 marijuana license will be granted to any medical marijuana license
6 holder from other states, provided that the state has a state
7 regulated medical marijuana program, and the applicant can prove
8 they are a member of such. Temporary licenses will be issued for
9 thirty (30) days. The cost for a temporary license shall be One
10 Hundred Dollars (\$100.00). Renewal will be granted with
11 resubmission of a new application. No additional criteria will be
12 required.

13 F. Medical marijuana license applicants will submit their
14 application to the Oklahoma State Department of Health for approval
15 and that the applicant must be an Oklahoma state resident and shall
16 prove residency by a valid driver's license, utility bills, or other
17 accepted methods.

18 G. The Oklahoma State Department of Health shall review the
19 medical marijuana application, approve/reject the application, and
20 mail the applicant's approval or rejection letter (stating reasons
21 for rejection) to the applicant within fourteen (14) days of receipt
22 of the application. Approved applicants will be issued a medical
23 marijuana license which will act as proof of their approved status.
24

1 Applications may only be rejected based on applicant not meeting
2 stated criteria or improper completion of the application.

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

- 5 1. A digital photograph of the license holder;
- 6 2. The expiration date of the license;
- 7 3. The county where the card was issued; and
- 8 4. A unique 24-character identification number assigned to the
9 license.

10 I. The Department of Health will make available, both on its
11 website, and through a telephone verification system, an easy method
12 to validate a medical license ~~holders~~ holder's authenticity by the
13 unique 24-character identifier.

14 J. The State Department of Health will ensure that all
15 application records and information are sealed to protect the
16 privacy of medical license applicants.

17 K. A caregiver license will be made available for qualified
18 caregivers of a medical marijuana license holder who is homebound.
19 The caregiver license will give the caregiver the same rights as the
20 medical license holder. Applicants for a caregiver license will
21 submit proof of the medical marijuana license holder's license
22 status and homebound status, that they are the designee of the
23 medical marijuana license holder, must submit proof that the
24 caregiver is age eighteen (18) or older, and must submit proof the

1 caregiver is an Oklahoma resident. This will be the only criteria
2 for a caregiver license.

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

7 M. 1. All applications for a medical license must be signed by
8 an Oklahoma Board certified physician. There are no qualifying
9 conditions. A medical marijuana license must be recommended
10 according to the accepted standards a reasonable and prudent
11 physician would follow when recommending or approving any
12 medication. No physician may be unduly stigmatized or harassed for
13 signing a medical marijuana license application.

14 2. If the referring physician determines the continued use of
15 medical marijuana by the patient no longer meets the requirements
16 set forth in the medical marijuana program, the physician shall
17 notify the Department and the Oklahoma Medical Marijuana Authority
18 shall immediately revoke the license.

19 3. For purposes of the medical marijuana program, the term
20 "physician" means a doctor of medicine, a doctor of osteopathic
21 medicine or a doctor of podiatric medicine who holds a valid,
22 unrestricted and existing license to practice in the State of
23 Oklahoma and meets the definition of board certified under rules
24 established by either the State Board of Medical Licensure and

1 Supervision, the State Board of Osteopathic Examiners or the State
2 Board of Podiatric Medical Examiners.

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

6 O. The Department shall exercise its respective powers and
7 perform its respective duties and functions as specified in the
8 medical marijuana program and this title including, but not limited
9 to, the following:

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

- 14 a. public health policy and public safety policy,
- 15 b. agronomic and horticultural best practices, and
- 16 c. medical and pharmacopoeia best practices;

17 2. Contract with third-party vendors and other governmental
18 entities in order to carry out the respective duties and functions
19 as specified in the medical marijuana program;

20 3. Upon complaint or upon its own motion and upon a completed
21 investigation, levy fines as prescribed in the medical marijuana
22 program and suspend or revoke licenses pursuant to the medical
23 marijuana program;

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

4 5. Apply for injunctive or declaratory relief to enforce the
5 provisions of this section and any rules promulgated pursuant to
6 this section;

7 6. Inspect and examine, with notice provided in accordance with
8 this act, all licensed premises of medical marijuana businesses,
9 research facilities and education facilities in which medical
10 marijuana is cultivated, manufactured, sold, stored, transported,
11 tested or distributed;

12 7. Work with the Oklahoma State Banking Department and the
13 State Treasurer to develop good practices and standards for banking
14 and finance for medical marijuana businesses;

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

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

21 10. Require verification for sources of finance for medical
22 marijuana businesses.

1 SECTION 6. AMENDATORY 63 O.S. 2011, Section 2-402, as
2 last amended by Section 3, State Question No. 780, Petition No. 404
3 (63 O.S. Supp. 2018, Section 2-402), is amended to read as follows:

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

10 2. It shall be unlawful for any person to purchase any
11 preparation excepted from the provisions of the Uniform Controlled
12 Dangerous Substances Act pursuant to Section 2-313 of this title in
13 an amount or within a time interval other than that permitted by
14 Section 2-313 of this title.

15 3. It shall be unlawful for any person or business to sell,
16 market, advertise or label any product containing ephedrine, its
17 salts, optical isomers, or salts of optical isomers, for the
18 indication of stimulation, mental alertness, weight loss, appetite
19 control, muscle development, energy or other indication which is not
20 approved by the pertinent federal OTC Final Monograph, Tentative
21 Final Monograph, or FDA-approved new drug application or its legal
22 equivalent. In determining compliance with this requirement, the
23 following factors shall be considered:

24 a. the packaging of the product,

- 1 b. the name of the product, and
2 c. the distribution and promotion of the product,
3 including verbal representations made at the point of
4 sale.

5 B. ~~Any~~ 1. Except as provided in paragraph 2 of this
6 subsection, any person who violates the provisions of this section
7 is with respect to a controlled dangerous substance, except for
8 marijuana, shall be guilty of a misdemeanor punishable by
9 confinement for not more than one (1) year and by a fine not
10 exceeding One Thousand Dollars (\$1,000.00).

11 2. Any person who violates the provisions of this section with
12 respect to marijuana shall be issued a citation in an amount not to
13 exceed Four Hundred Dollars (\$400.00).

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

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

1 Passed the House of Representatives the 12th day of March, 2019.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2019.

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8 Presiding Officer of the Senate