

1 STATE OF OKLAHOMA

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

3 SENATE BILL NO. 1030

By: Paxton

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5
6 AS INTRODUCED

7 An Act relating to medical marijuana; amending
8 Provision No. 1, State Question No. 788, Initiative
9 Petition No. 412 (63 O.S. Supp. 2018, Section 420),
10 which relates to medical marijuana license; modifying
11 persons to whom law is applicable; modifying
12 information retained by the State Department of
13 Health; allowing municipalities to pass certain
14 ordinances; clarifying language; amending Provision
15 No. 6, State Question No. 788, Initiative Petition
16 No. 412 (63 O.S. Supp. 2018, Section 425), which
17 relates to discrimination against a medical marijuana
18 license holder; broadening conditions for certain
19 refusals; allowing employers to take certain actions
20 against employees in safety-sensitive positions;
21 defining term; construing section; clarifying certain
22 powers of municipalities; amending Provision No. 7,
23 State Question No. 788, Initiative Petition No. 412
24 (63 O.S. Supp. 2018, Section 426), which relates to
25 tax on retail medical marijuana; providing that sales
26 are subject to certain tax; construing section;
27 setting forth certain provisions related to hearings;
28 requiring the Department to assist law enforcement
29 and make certain information available to law
30 enforcement and local governments; requiring
31 certificate of compliance; allowing certain adoption
32 of regulations; providing for codification; and
33 declaring an emergency.

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

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

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

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

16 B. Possession of up to one and one-half (1.5) ounces of
17 marijuana by persons who ~~can state a medical condition~~ have been
18 issued a state issued medical marijuana license, but are not in
19 possession of ~~a state issued medical marijuana license~~ such license
20 at the time, shall constitute a misdemeanor offense with a fine not
21 to 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
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1 medical license recipients, dispensaries, growers, and packagers
2 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 its website, in an easy to find location, an application for a
6 medical marijuana license. The license ~~will be good~~ shall be valid
7 for two (2) years, and the application fee ~~will~~ shall be One Hundred
8 Dollars (\$100.00), or Twenty Dollars (\$20.00) for individuals on
9 Medicaid, Medicare, or SoonerCare. The methods of payment ~~will~~
10 shall be provided on the Department's website.

11 E. A temporary license application ~~will~~ shall also be made
12 available on the ~~Oklahoma~~ State Department of Health website. A
13 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 medical marijuana program, and the
16 applicant can prove they are a member of such program. Temporary
17 licenses ~~will~~ shall be issued for thirty (30) days. The cost for a
18 temporary license shall be One Hundred Dollars (\$100.00). Renewal
19 ~~will~~ shall be granted with resubmission of a new application. No
20 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
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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 improper completion of the
12 application.

13 H. The ~~Oklahoma~~ State Department of Health ~~will only keep the~~
14 ~~following records for each approved medical 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 identification number assigned to the~~
19 license shall retain all information obtained from the application.

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. A medical marijuana license ~~must~~ shall be
22 recommended according to the accepted standards a reasonable and
23 prudent physician would follow when recommending or approving any
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1 medication. No physician may be unduly stigmatized or harassed for
2 signing a medical marijuana license application.

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

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

11 SECTION 2. AMENDATORY Provision No. 6, State Question
12 No. 788, Initiative Petition No. 412 (63 O.S. Supp. 2018, Section
13 425), is amended to read as follows:

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

20 B. 1. Unless a failure to do so would cause an employer the
21 potential to ~~imminently~~ lose a monetary or licensing related benefit
22 under federal law or regulations, an employer may not discriminate
23 against a person in hiring, termination or imposing any term or
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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 3. 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.

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 4. 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
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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 5. 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.

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