

An Act

ENROLLED SENATE
BILL NO. 1030

By: Paxton of the Senate

and

Bush of the House

An Act relating to medical marijuana; requiring implementation according to requirements of Oklahoma Medical Marijuana and Patient Protection Act; amending Section 1, State Question No. 788, Initiative Petition No. 412, as amended by Section 1 of Enrolled Senate Bill No. 31 of the 1st Session of the 57th Oklahoma Legislature and Section 6, State Question No. 788, Initiative Petition No. 412 (63 O.S. Supp. 2018, Sections 420 and 425), which relate to medical marijuana; providing certain offense not punishable by imprisonment; providing for procedures by law enforcement officers; providing for issuance of citations; providing for release on personal recognizance; modifying provisions related to medical marijuana licensing; modifying certain provisions related to caregivers and recommending physicians; providing for mandatory effect of certain provisions; modifying certain terms and references; modifying provisions related to refusal by certain schools or landlords; providing for determinations of undue change or restriction of municipal zoning laws; authorizing municipalities to follow certain standard; defining term; requiring record of licensure revocation proceedings; providing exception; requiring assistance by State Department of Health to law enforcement officers; requiring sharing of information; providing for communication of information related to medical marijuana license; requiring availability of information to political subdivisions; providing for certificates of compliance; amending Sections 7 and 14 of Enrolled

House Bill No. 2612 of the 1st Session of the 57th Oklahoma Legislature, which relate to medical marijuana; providing for accessibility of medical marijuana use registry to courts of the state; striking certain prohibition related to storage of information; modifying procedures related to issuance of licenses; modifying provisions related to issuance of conditional license; providing for codification; and providing for noncodification.

SUBJECT: Medical marijuana

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The provisions of this act shall be implemented in accordance with and subject to the Oklahoma Medical Marijuana and Patient Protection Act.

SECTION 2. AMENDATORY Section 1, State Question No. 788, Initiative Petition No. 412, as amended by Section 1 of Enrolled Senate Bill No. 31 of the 1st Session of the 57th Oklahoma Legislature (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;
2. Legally possess up to three (3) ounces (84.9 grams) of marijuana on their person;
3. Legally possess six (6) mature marijuana plants;
4. Legally possess six (6) seedling plants;

5. Legally possess one (1) ounce (28.3 grams) of concentrated marijuana;

6. Legally possess seventy-two (72) ounces (2,037.6 grams) of edible marijuana; and

7. Legally possess up to eight (8) ounces (226.4 grams) of marijuana in their residence.

B. Possession of up to one and one-half (1.5) ounces (42.45 grams) of marijuana by persons who can state a medical condition, but not in possession of a state-issued medical marijuana license, shall constitute a misdemeanor offense with punishable by a fine not to exceed Four Hundred Dollars (\$400.00) and shall not be subject to imprisonment for the offense. Any law enforcement officer who comes in contact with a person in violation of this subsection and who is satisfied as to the identity of the person, as well as any other pertinent information the law enforcement officer deems necessary, shall issue to the person a written citation containing a notice to answer the charge against the person in the appropriate court. Upon receiving the written promise of the alleged violator to answer as specified in the citation, the law enforcement officer shall release the person upon personal recognizance unless there has been a violation of another provision of law.

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

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

E. A temporary license application ~~will~~ shall also be available on the ~~Oklahoma~~ website of the State Department of Health website.

A temporary medical marijuana license ~~will~~ shall be granted to any medical marijuana license holder from other states, provided that the state has a state regulated medical marijuana program, and the applicant can prove ~~they are~~ he or she is a member of such. Temporary licenses ~~will~~ shall be issued for thirty (30) days. The cost for a temporary license shall be One Hundred Dollars (\$100.00). Renewal will be granted with resubmission of a new application. No additional criteria ~~will~~ shall be required.

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

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

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

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

I. The State Department of Health ~~will~~ shall make available, both on its website, and through a telephone verification system, an easy method to validate the authenticity of a medical marijuana

license holders ~~authenticity~~ by the unique 24-character ~~identifier~~ identification number.

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

K. A caregiver license ~~will~~ shall be made available for qualified caregivers of a medical marijuana license holder who is homebound. The As provided in Section 11 of Enrolled House Bill No. 2612 of the 1st Session of the 57th Oklahoma Legislature, the caregiver license will give shall provide the caregiver the same rights as the medical license holder marijuana patient licensee, including the ability to possess marijuana, marijuana products and mature and immature plants pursuant to the Oklahoma Medical Marijuana and Patient Protection Act, but excluding the ability to use marijuana or marijuana products unless the caregiver has a medical marijuana patient license. Applicants for a caregiver license will shall submit proof of the medical marijuana license holder's license status and homebound status of the medical marijuana license holder, which they are that the caregiver is the designee of the medical marijuana license holder, must submit proof that the caregiver is age eighteen (18) years of age or older, and must submit proof that the caregiver is an Oklahoma resident. This will shall be the only criteria for a caregiver license.

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

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

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

SECTION 3. AMENDATORY Section 6, State Question No. 788, Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 425), is 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 ~~imminently~~ cause the school or landlord the potential to lose a monetary or licensing-related benefit under federal law or regulations.

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

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

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

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

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

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

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

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

3. For purposes of this section, "retail marijuana establishment" means an entity licensed by the State Department of Health as a medical marijuana dispensary. Retail marijuana establishment does not include those other entities licensed by the Department as marijuana-licensed premises, medical marijuana businesses or other facilities or locations where marijuana or any product containing marijuana or its by-products are cultivated, grown, processed, stored or manufactured.

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

H. Research ~~will~~ shall be provided for under this law. A researcher may apply to the ~~Oklahoma State~~ State Department of Health for a special research license. ~~That license will~~ The license shall be granted, provided the applicant meets the criteria listed under

~~Section 421.B~~ subsection B of Section 421 of this title. Research license holders ~~will~~ shall be required to file monthly consumption reports to the ~~Oklahoma~~ State Department of Health with amounts of marijuana used for research.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Except for revocation hearings concerning licensed patients, as defined in Section 2 of Enrolled House Bill No. 2612 of the 1st Session of the 57th Oklahoma Legislature, all licensure revocation hearings conducted pursuant to marijuana licenses established in the Oklahoma Statutes shall be recorded. A party may request a copy of the recording of the proceedings. Copies shall be provided to local law enforcement if the revocation was based on alleged criminal activity.

B. The State Department of Health shall assist any law enforcement officer in the performance of his or her duties upon such request by the law enforcement officer or the request of other local officials having jurisdiction. Except for license information concerning licensed patients, as defined in Section 2 of Enrolled House Bill No. 2612 of the 1st Session of the 57th Oklahoma Legislature, the Department shall share information with law enforcement agencies upon request without a subpoena or search warrant.

C. The State Department of Health shall make available all information displayed on medical marijuana licenses, as well as whether or not the license is valid, to law enforcement electronically through the Oklahoma Law Enforcement Telecommunications System.

D. The Department shall make available to political subdivisions a list of marijuana-licensed premises, medical marijuana businesses or any other premises where marijuana or its by-products are licensed to be cultivated, grown, processed, stored or manufactured to aid county and municipal governments in identifying locations within their jurisdiction and ensure compliance with local regulations.

E. All marijuana-licensed premises, medical marijuana businesses or any other premises where marijuana or its by-products are licensed to be cultivated, grown, processed, stored or manufactured shall submit with their application, after notifying the political subdivision of their intent, a certificate of compliance from the political subdivision where the facility of the applicant or use is to be located certifying compliance with zoning classifications, applicable municipal ordinances and all applicable safety, electrical, fire, plumbing, waste, construction and building specification codes.

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

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

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

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

2. Any court in this state.

C. All other records regarding a medical marijuana licensee shall be maintained by the Authority and shall be deemed confidential. The handling of any records maintained by the Authority shall comply with all relevant state and federal laws including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Such records shall be marked as confidential, shall not be made available to the public and shall only be made available to the licensee, designee of the licensee, any physician of the licensee or the caregiver of the licensee. ~~No personally identifiable information, as defined under HIPAA, shall be stored at the Department.~~

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

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

SECTION 6. AMENDATORY Section 14 of Enrolled House Bill No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is amended to read as follows:

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

1. Medical marijuana commercial grower;
2. Medical marijuana processor;
3. Medical marijuana dispensary;
4. Medical marijuana transporter; and
5. Medical marijuana testing laboratory.

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

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

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

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

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

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

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

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

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

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

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

- a. all applicants shall be age twenty-five (25) years of age or older,
- b. any applicant applying as an individual shall show proof that the applicant is an Oklahoma resident pursuant to paragraph 11 of this subsection,
- c. any applicant applying as an entity shall show that seventy-five percent (75%) of all members, managers, executive officers, partners, board members or any other form of business ownership are Oklahoma residents pursuant to paragraph 11 of this subsection,
- d. all applying individuals or entities shall be registered to conduct business in the State of Oklahoma,

- e. all applicants shall disclose all ownership interests pursuant to this act, and
- f. applicants shall not have been convicted of a nonviolent felony in the last two (2) years, and any other felony conviction within the last five (5) years, shall not be current inmates, or currently incarcerated in a jail or corrections facility;

8. There shall be no limit to the number of medical marijuana business licenses or categories that an individual or entity can apply for or receive, although each application and each category shall require a separate application and application fee. A commercial grower, processor and dispensary, or any combination thereof, are authorized to share the same address or physical location, subject to the restrictions set forth in this act;

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

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

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

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

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

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

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

13. All applicants shall establish their identity through submission of a color copy or digital image of one of the following 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) 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 application, or for a reason provided for in this act. If an application is rejected for failure to provide required information, the applicant shall have thirty (30) days to submit the required information for reconsideration. No additional application fee shall be charged for such reconsideration.

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

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

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

~~I. In the event that an applicant has not received the necessary permits, certificates or licenses from a municipality, but the applicant has fulfilled all other obligations required by this act, the Authority shall grant a conditional license. A conditional license shall remain valid for a period of one (1) year or until the~~

~~applicant obtains the necessary local permits, certificates or licenses. An applicant shall not transfer any medical marijuana, concentrate or products to a medical marijuana business, patient or caregiver until approval is received from the Authority.~~

~~J.~~ A medical marijuana business license shall not be issued to or held by:

1. A person until all required fees have been paid;
2. A person who has been convicted of a nonviolent felony within two (2) years of the date of application, or within five (5) years for any other felony;
3. A corporation, if the criminal history of any of its officers, directors or stockholders indicates that the officer, director or stockholder has been convicted of a nonviolent felony within two (2) years of the date of application, or within five (5) years for any other felony;
4. A person under twenty-five (25) years of age;
5. A person licensed pursuant to this section who, during a period of licensure, or who, at the time of application, has failed to:
 - a. file taxes, interest or penalties due related to a medical marijuana business, or
 - b. pay taxes, interest or penalties due related to a medical marijuana business;
6. A sheriff, deputy sheriff, police officer or prosecuting officer, or an officer or employee of the Authority or municipality;
7. A person whose authority to be a caregiver as defined in this act has been revoked by the Department; or
8. A publicly traded company.

~~K. I.~~ In investigating the qualifications of an applicant or a licensee, the Department, Authority and municipalities may have

access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such an agency. In the event the Department considers the criminal history record of the applicant, the Department shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references and educational achievements, especially those items pertaining to the period of time between the last criminal conviction of the applicant and the consideration of the application for a state license.

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

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

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

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

Passed the Senate the 22nd day of May, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2019.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____