

**FLOOR AMENDMENT**

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1030

				Of the printed Bill
Page	<u>1</u>	Section	<u>1</u>	Lines <u>15</u>
				Of the Engrossed Bill

By inserting a new "SECTION 1." to read as follows:  
(see attached)

and by renumbering the subsequent sections of the bill;

Page 4, Section 2, Line 18: By deleting the word "All" and inserting in lieu thereof, the following: "Except for revocation hearings concerning licensed patients, as defined in Section 2 of Enrolled House Bill No. 2612 of the 1<sup>st</sup> Session of the 57<sup>th</sup> Oklahoma Legislature, all";

Page 4, Section 2, Lines 18-19: By deleting all language beginning with the word "the" on Line 18 through the word "of" on Line 19 and inserting in lieu thereof, the following: "marijuana licenses established in";

Page 5, Section 2, Line 4: By deleting the word "The" and inserting in lieu thereof, the following: "Except for license information concerning licensed patients, as defined in Section 2 of Enrolled House Bill No. 2612 of the 1<sup>st</sup> Session of the 57<sup>th</sup> Oklahoma Legislature, the";

Page 5, Section 2, Line 16: By deleting the phrase "to identify" and inserting in lieu thereof, the following: "in identifying";

Page 7, Section 4, Line 12: By inserting a new "SECTION 4." to read as follows:

(see attached)

and by renumbering the subsequent sections of the bill; and

Page 16, Section 5, Line 11: By inserting a new "SECTION 5, 6 and 7" to read as follows:

(see attached).

**AMEND TITLE TO CONFORM TO AMENDMENTS**Amendment submitted by: Scott Fetgatter

Adopted: \_\_\_\_\_

\_\_\_\_\_  
Reading Clerk



1 "SECTION 1. AMENDATORY Section 1, State Question No.  
2 788, Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 420),  
3 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, but not in  
18 possession of a state issued medical marijuana license, shall  
19 constitute a misdemeanor offense ~~with~~ punishable by a fine not to  
20 exceed Four Hundred Dollars (\$400.00) and shall not be subject to  
21 imprisonment for the offense. Any law enforcement officer who come  
22 in contact with a person in violation of this subsection and who is  
23 satisfied as to the identity of the person, as well as any other  
24 pertinent information the law enforcement officer deems necessary,

1 shall issue to the person a written citation containing a notice to  
2 answer the charge against the person in the appropriate court. Upon  
3 receiving the written promise of the alleged violator to answer as  
4 specified in the citation, the law enforcement officer shall release  
5 the person upon personal recognizance unless there has been a  
6 violation of another provisions of law.

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

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

19 E. A temporary license application ~~will~~ shall also be available  
20 on the ~~Oklahoma~~ website of the State Department of Health website.  
21 A temporary medical marijuana license ~~will~~ shall be granted to any  
22 medical marijuana license holder from other states, provided that  
23 the state has a state regulated medical marijuana program, and the  
24 applicant can prove ~~they are~~ he or she is a member of such.

1 Temporary licenses ~~will~~ shall be issued for thirty (30) days. The  
2 cost for a temporary license shall be One Hundred Dollars (\$100.00).  
3 Renewal will be granted with resubmission of a new application. No  
4 additional criteria ~~will~~ shall be required.

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

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

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

- 22 1. A digital photograph of the license holder;
- 23 2. The expiration date of the license;
- 24 3. The county where the card was issued; and

1 4. A unique 24-character identification number assigned to the  
2 license.

3 I. The State Department of Health ~~will~~ shall make available,  
4 both on its website, and through a telephone verification system, an  
5 easy method to validate the authenticity of a medical marijuana  
6 ~~license holders authenticity~~ by the unique 24-character ~~identifier~~  
7 identification number.

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

11 K. A caregiver license ~~will~~ shall be made available for  
12 qualified caregivers of a medical marijuana license holder who is  
13 homebound. The caregiver license ~~will~~ shall give the caregiver the  
14 same rights as the medical marijuana license holder. Applicants for  
15 a caregiver license ~~will~~ shall submit proof of the ~~medical marijuana~~  
16 ~~license holder's~~ license status and homebound status of the medical  
17 marijuana license holder, that ~~they are~~ the caregiver is the  
18 designee of the medical marijuana license holder, ~~must submit proof~~  
19 that the caregiver is ~~age~~ eighteen (18) years of age or older, and  
20 ~~must submit proof that~~ the caregiver is an Oklahoma resident. This  
21 ~~will~~ shall be the only criteria for a caregiver license.

22 L. All applicants must be eighteen (18) years of age or older.  
23 A special exception ~~will~~ shall be granted to an applicant under the  
24 age of eighteen (18), however these applications must be signed by

1 two (2) physicians and the ~~applicant's~~ parent or legal guardian of  
2 the applicant.

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

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

13 SECTION 4. AMENDATORY Section 10 of Enrolled House Bill  
14 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is  
15 amended to read as follows:

16 Section 10. A. ~~Only~~ Except as provided for in subsection F of  
17 this section, only licensed Oklahoma allopathic and osteopathic  
18 physicians may provide a medical marijuana recommendation for a  
19 medical marijuana patient license under this act.

20 B. A physician who has not completed his or her first residency  
21 shall not meet the definition of "physician" under this section and  
22 any recommendation for a medical marijuana patient license shall not  
23 be processed by the Authority.

24

1 C. No physician shall be subject to arrest, prosecution or  
2 penalty in any manner or denied any right or privilege under  
3 Oklahoma state, municipal or county statute, ordinance or  
4 resolution, including without limitation a civil penalty or  
5 disciplinary action by the State Board of Medical Licensure and  
6 Supervision or the State Board of Osteopathic Examiners or by any  
7 other business, occupation or professional licensing board or  
8 bureau, solely for providing a medical marijuana recommendation for  
9 a patient or for monitoring, treating or prescribing scheduled  
10 medication to patients who are medical marijuana licensees. The  
11 provisions of this subsection shall not prevent the relevant  
12 professional licensing boards from sanctioning a physician for  
13 failing to properly evaluate the medical condition of a patient or  
14 for otherwise violating the applicable physician-patient standard of  
15 care.

16 D. A physician who recommends use of medical marijuana shall  
17 not be located at the same physical address as a dispensary.

18 E. If the physician determines the continued use of medical  
19 marijuana by the patient no longer meets the requirements set forth  
20 in this act, the physician shall notify the Department and the  
21 Authority shall immediately revoke the license.

22 F. Certified nurse practitioners shall be authorized to provide  
23 medical marijuana recommendations for medical marijuana patient

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1 licenses under the authority of a supervising Oklahoma physician as  
2 described in subsection A of this section."

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1 "SECTION \_\_. AMENDATORY Section No. 7, State Question No.  
2 788, Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 426),  
3 is amended to read as follows:

4 Section 426. A. The tax on retail medical marijuana sales will  
5 be established at ~~seven percent (7%)~~ six percent (6%) of the gross  
6 amount received by the seller.

7 B. This tax will be collected at the point of sale. Tax  
8 proceeds will be applied primarily to finance the regulatory office.

9 C. If proceeds from the levy authorized by subsection A of this  
10 section exceed the budgeted amount for running the regulatory  
11 office, any surplus shall be apportioned with seventy-five percent  
12 (75%) going to the General Revenue Fund and may only be expended for  
13 common education. Twenty-five percent (25%) shall be apportioned to  
14 the Oklahoma State Department of Health and earmarked for drug and  
15 alcohol rehabilitation.

16 D. The tax levied by this section shall be collected at the  
17 time of the sale of medical marijuana and shall be due and payable  
18 to the Oklahoma Tax Commission by the seller on the twentieth day of  
19 each month following the month of the sale. The Tax Commission  
20 shall adopt rules and prescribe such forms as it deems necessary for  
21 the collection of the tax.

22 SECTION \_\_. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1354.1-1MM of Title 68, unless  
24 there is created a duplication in numbering, reads as follows:

1 A. Retail medical marijuana sales shall be subject to sales tax  
2 at the rate of one percent (1%) of the gross purchase price,  
3 including cash, credit or other monetary consideration.

4 B. Retail medical marijuana shall be subject to the levy of  
5 sales tax imposed by a county or a municipality in the same manner  
6 as other tangible personal property.

7 C. The tax levied in subsection A of this section shall be  
8 collected at the time of the sale of medical marijuana and shall be  
9 due and payable to the Oklahoma Tax Commission by the seller on the  
10 twentieth day of each month following the month of the sale.

11 D. The revenue derived from the levy imposed pursuant to  
12 subsection A of this section shall be apportioned one hundred  
13 percent (100%) to the General Revenue Fund of the State Treasury.

14 E. The Tax Commission shall adopt rules and prescribe such  
15 forms as it deems necessary for the collection of the tax.

16 SECTION \_\_\_\_ . AMENDATORY 68 O.S. 2011, Section 1354, as  
17 amended by Section 2, Chapter 323, O.S.L. 2012 (68 O.S. Supp. 2018,  
18 Section 1354), is amended to read as follows:

19 Section 1354. A. There is hereby levied upon all sales, not  
20 otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of  
21 four and one-half percent (4.5%) of the gross receipts or gross  
22 proceeds of each sale of the following:

- 23 1. Tangible personal property, except:  
24 a. newspapers and periodicals, and

1           b.    medical marijuana subject to the sales tax levy  
2           imposed pursuant to Section        of this act;

3           2.   Natural or artificial gas, electricity, ice, steam, or any  
4 other utility or public service, except water, sewage and refuse.  
5 Provided, the rate of four and one-half percent (4.5%) shall not  
6 apply to sales subject to the provisions of paragraph 6 of Section  
7 1357 of this title;

8           3.   Transportation for hire to persons by common carriers,  
9 including railroads both steam and electric, motor transportation  
10 companies, pullman car companies, airlines, and other means of  
11 transportation for hire, excluding:

12           a.   transportation services provided by a tourism service  
13 broker which are incidental to the rendition of  
14 tourism brokerage services by such broker to a  
15 customer regardless of whether or not such  
16 transportation services are actually owned and  
17 operated by the tourism service broker. For purposes  
18 of this subsection, "tourism service broker" means any  
19 person, firm, association or corporation or any  
20 employee of such person, firm, association or  
21 corporation which, for a fee, commission or other  
22 valuable consideration, arranges or offers to arrange  
23 trips, tours or other vacation or recreational travel  
24 plans for a customer, and

1           b.    transportation services provided by a funeral  
2                    establishment to family members and other persons for  
3                    purposes of conducting a funeral in this state;

4           4.    Intrastate, interstate and international telecommunications  
5 services sourced to this state in accordance with Section 1354.30 of  
6 this title and ancillary services.    Provided:

7           a.    the term "telecommunications services" shall mean the  
8                    electronic transmission, conveyance, or routing of  
9                    voice, data, audio, video, or any other information or  
10                   signals to a point, or between or among points.    The  
11                   term "telecommunications services" includes such  
12                   transmission, conveyance, or routing in which computer  
13                   processing applications are used to act on the form,  
14                   code or protocol of the content for purposes of  
15                   transmission, conveyance or routing without regard to  
16                   whether such service is referred to as voice-over  
17                   Internet protocol services or is classified by the  
18                   Federal Communications Commission as enhanced or value  
19                   added.    "Telecommunications services" do not include:

20           (1)   data processing and information services that  
21                    allow data to be generated, acquired, stored,  
22                    processed, or retrieved and delivered by an  
23                    electronic transmission to a purchaser where such  
24

purchaser's primary purpose for the underlying transaction is the processed data or information,

- (2) installation or maintenance of wiring or equipment on a customer's premises,
- (3) tangible personal property,
- (4) advertising, including but not limited to directory advertising,
- (5) billing and collection services provided to third parties,
- (6) Internet access services,
- (7) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;
- (8) ancillary services, or
- (9) digital products delivered electronically, including but not limited to, software, music, video, reading materials or ring tones,

1           b.    the term "interstate" means a "telecommunications  
2                    service" that originates in one United States state,  
3                    or a United States territory or possession, and  
4                    terminates in a different United States state or a  
5                    United States territory or possession,

6           c.    the term "intrastate" means a telecommunications  
7                    service that originates in one United States state or  
8                    a United States territory or possession, and  
9                    terminates in the same United States state or a United  
10                  States territory or possession,

11          d.    the term "ancillary services" means services that are  
12                  associated with or incidental to the provision of  
13                  telecommunications services, including but not limited  
14                  to "detailed telecommunications billing", "directory  
15                  assistance", "vertical service", and "voice mail  
16                  services",

17          e.    in the case of a bundled transaction that includes  
18                  telecommunication service, ancillary service, internet  
19                  access or audio or video programming service:

20                (1)  if the price is attributable to products that are  
21                    taxable and products that are nontaxable, the  
22                    portion of the price attributable to the  
23                    nontaxable products may be subject to tax unless  
24                    the provider can identify by reasonable and

1           verifiable standards such portion for its books  
2           and records kept in the regular course of  
3           business for other purposes, including, but not  
4           limited to, nontax purposes, and

5           (2) the provisions of this paragraph shall apply  
6           unless otherwise provided by federal law, and

7           f. a sale of prepaid calling service or prepaid wireless  
8           calling service shall be taxable at the time of sale  
9           to the customer;

10          5. Telecommunications nonrecurring charges, which means an  
11 amount billed for the installation, connection, change or initiation  
12 of telecommunications services received by a customer;

13          6. Printing or printed matter of all types, kinds, or character  
14 and, except for services of printing, copying or photocopying  
15 performed by a privately owned scientific and educational library  
16 sustained by monthly or annual dues paid by members sharing the use  
17 of such services with students interested in the study of geology,  
18 petroleum engineering or related subjects, any service of printing  
19 or overprinting, including the copying of information by mimeograph,  
20 multigraph, or by otherwise duplicating written or printed matter in  
21 any manner, or the production of microfiche containing information  
22 from magnetic tapes or other media furnished by customers;

23          7. Service of furnishing rooms by hotel, apartment hotel,  
24 public rooming house, motel, public lodging house, or tourist camp;



1 8. Service of furnishing storage or parking privileges by auto  
2 hotels or parking lots;

3 9. Computer hardware, software, coding sheets, cards, magnetic  
4 tapes or other media on which prewritten programs have been coded,  
5 punched, or otherwise recorded, including the gross receipts from  
6 the licensing of software programs;

7 10. Foods, confections, and all drinks sold or dispensed by  
8 hotels, restaurants, or other dispensers, and sold for immediate  
9 consumption upon the premises or delivered or carried away from the  
10 premises for consumption elsewhere;

11 11. Advertising of all kinds, types, and characters, including  
12 any and all devices used for advertising purposes except those  
13 specifically exempt pursuant to the provisions of Section 1357 of  
14 this title;

15 12. Dues or fees to clubs including free or complimentary dues  
16 or fees which have a value equivalent to the charge that would have  
17 otherwise been made, including any fees paid for the use of  
18 facilities or services rendered at a health spa or club or any  
19 similar facility or business;

20 13. Tickets for admission to or voluntary contributions made to  
21 places of amusement, sports, entertainment, exhibition, display, or  
22 other recreational events or activities, including free or  
23 complimentary admissions which have a value equivalent to the charge  
24 that would have otherwise been made;

1 14. Charges made for the privilege of entering or engaging in  
2 any kind of activity, such as tennis, racquetball, or handball, when  
3 spectators are charged no admission fee;

4 15. Charges made for the privilege of using items for  
5 amusement, sports, entertainment, or recreational activity, such as  
6 trampolines or golf carts;

7 16. The rental of equipment for amusement, sports,  
8 entertainment, or other recreational activities, such as bowling  
9 shoes, skates, golf carts, or other sports or athletic equipment;

10 17. The gross receipts from sales from any vending machine  
11 without any deduction for rental to locate the vending machine on  
12 the premises of a person who is not the owner or any other  
13 deductions therefrom;

14 18. The gross receipts or gross proceeds from the rental or  
15 lease of tangible personal property, including rental or lease of  
16 personal property when the rental or lease agreement requires the  
17 vendor to launder, clean, repair, or otherwise service the rented or  
18 leased property on a regular basis, without any deduction for the  
19 cost of the service rendered. If the rental or lease charge is  
20 based on the retail value of the property at the time of making the  
21 rental or lease agreement and the expected life of the property, and  
22 the rental or lease charge is separately stated from the service  
23 cost in the statement, bill, or invoice delivered to the consumer,  
24

1 the cost of services rendered shall be deducted from the gross  
2 receipts or gross proceeds;

3 19. Flowers, plants, shrubs, trees, and other floral items,  
4 whether or not produced by the vendor, sold by persons engaged in  
5 florist or nursery business in this state, including all orders  
6 taken by an Oklahoma business for delivery in another state. All  
7 orders taken outside this state for delivery within this state shall  
8 not be subject to the taxes levied in this section;

9 20. Tangible personal property sold to persons, peddlers,  
10 solicitors, or other salesmen, for resale when there is likelihood  
11 that this state will lose tax revenue due to the difficulty of  
12 enforcing the provisions of the Oklahoma Sales Tax Code because of:

- 13 a. the operation of the business,
- 14 b. the nature of the business,
- 15 c. the turnover of independent contractors,
- 16 d. the lack of place of business in which to display a  
17 permit or keep records,
- 18 e. lack of adequate records,
- 19 f. the fact that the persons are minors or transients,
- 20 g. the fact that the persons are engaged in service  
21 businesses, or
- 22 h. any other reasonable reason;

23 21. Any taxable services and tangible personal property  
24 including materials, supplies, and equipment sold to contractors for

1 the purpose of developing and improving real estate even though said  
2 real estate is intended for resale as real property, hereby declared  
3 to be sales to consumers or users, however, taxable materials,  
4 supplies and equipment sold to contractors as provided by this  
5 subsection which are purchased as a result of and subsequent to the  
6 date of a contract entered into either prior to the effective date  
7 of any law increasing the rate of sales tax imposed by this article,  
8 or entered into prior to the effective date of an ordinance or other  
9 measure increasing the sales tax levy of a political subdivision  
10 shall be subject to the rate of sales tax applicable, as of the date  
11 such contract was entered into, to sales of such materials, supplies  
12 and equipment if such purchases are required in order to complete  
13 the contract. Such rate shall be applicable to purchases made  
14 pursuant to the contract or any change order under the contract  
15 until the contract or any change order has been completed, accepted  
16 and the contractor has been discharged from any further obligation  
17 under the contract or change order or until two (2) years from the  
18 date on which the contract was entered into whichever occurs first.  
19 The increased sales tax rate shall be applicable to all such  
20 purchases at the time of sale and the contractor shall file a claim  
21 for refund before the expiration of three (3) years after the date  
22 of contract completion or five (5) years after the contract was  
23 entered into, whichever occurs earlier. However, the Oklahoma Tax  
24 Commission shall prescribe rules and regulations and shall provide

1 procedures for the refund to a contractor of sales taxes collected  
2 on purchases eligible for the lower sales tax rate authorized by  
3 this subsection;

4 22. Any taxable services and tangible personal property sold to  
5 persons who are primarily engaged in selling their services, such as  
6 repairmen, hereby declared to be sales to consumers or users; and

7 23. Canoes and paddleboats as defined in Section 4002 of Title  
8 63 of the Oklahoma Statutes.

9 B. All solicitations or advertisements in print or electronic  
10 media by Group Three vendors, for the sale of tangible property to  
11 be delivered within this state, shall contain a notice that the sale  
12 is subject to Oklahoma sales tax, unless the sale is exempt from  
13 such taxation."

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