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April 8, 2019

ENGROSSED HOUSE
BILL NO. 2614

By: Echols of the House

and

McCortney of the Senate

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

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

SECTION 1. AMENDATORY Section 1, State Question No. 788,
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.

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 2. 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,

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

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

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

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

SECTION 3. It being immediately necessary for the preservation
of the public peace, health or safety, an emergency is hereby
declared to exist, by reason whereof this act shall take effect and
be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
April 8, 2019 - DO PASS