

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3956

By: Fetgatter

AS INTRODUCED

An Act relating to medical marijuana; amending Section 14, Chapter 11, O.S.L. 2019, as amended by Section 6, Chapter 509, O.S.L. 2019 and Section 16, Chapter 11, O.S.L. 2019 (63 O.S. Supp. 2019, Sections 427.14 and 427.16), which relate to the Medical Marijuana and Patient Protection Act; exempting transporter agents from residency requirement; removing requirement for Global Positioning System (GPS) trackers on vehicles that transport medical marijuana, concentrate and product; reducing transporter agent license fee; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 14, Chapter 11, O.S.L. 2019, as amended by Section 6, Chapter 509, O.S.L. 2019 (63 O.S. Supp. 2019, Section 427.14), is amended to read as follows:

Section 427.14 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;

1 4. Medical marijuana transporter; and

2 5. Medical marijuana testing laboratory.

3 B. The Oklahoma Medical Marijuana Authority, with the aid of
4 the Office of Management and Enterprise Services, shall develop a
5 website for medical marijuana business applications.

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

9 D. The nonrefundable application fee for a medical marijuana
10 business license shall be Two Thousand Five Hundred Dollars
11 (\$2,500.00).

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

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

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

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

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

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

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

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

- 9 a. all applicants shall be age twenty-five (25) years of
10 age or older,
- 11 b. any applicant applying as an individual shall show
12 proof that the applicant is an Oklahoma resident
13 pursuant to paragraph 11 of this subsection,
- 14 c. any applicant applying as an entity shall show that
15 seventy-five percent (75%) of all members, managers,
16 executive officers, partners, board members or any
17 other form of business ownership are Oklahoma
18 residents pursuant to paragraph 11 of this subsection,
- 19 d. all applying individuals or entities shall be
20 registered to conduct business in the State of
21 Oklahoma,
- 22 e. all applicants shall disclose all ownership interests
23 pursuant to ~~this act~~ the Oklahoma Medical Marijuana
24 and Patient Protection Act, and

1 f. applicants shall not have been convicted of a
2 nonviolent felony in the last two (2) years, and any
3 other felony conviction within the last five (5)
4 years, shall not be current inmates, or currently
5 incarcerated in a jail or corrections facility;

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

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

- 20 a. individual applicants applying on their own behalf,
- 21 b. individuals applying on behalf of an entity,
- 22 c. all principal officers of an entity, and
- 23 d. all owners of an entity as defined by ~~this act~~ Section
24 427.2 of this title;

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

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

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

21 Upon the effective date of this act, a transporter agent shall be
22 exempt from the two-year or five-year Oklahoma residency requirement
23 provided for in paragraph 7 of this subsection;
24

1 12. All license applicants shall be required to submit a
2 registration with the Oklahoma State Bureau of Narcotics and
3 Dangerous Drugs Control as provided in Sections ~~2-202~~ 2-302 through
4 ~~2-204~~ 2-304 of ~~Title 63 of the Oklahoma Statutes~~ this title;

5 13. All applicants shall establish their identity through
6 submission of a color copy or digital image of one of the following
7 unexpired documents:

- 8 a. front and back of an Oklahoma driver license,
- 9 b. front and back of an Oklahoma identification card,
- 10 c. a United States passport or other photo identification
11 issued by the United States government,
- 12 d. certified copy of the applicant's birth certificate
13 for minor applicants who do not possess a document
14 listed in this section, or
- 15 e. a tribal identification card approved for
16 identification purposes by the Oklahoma Department of
17 Public Safety; and

18 14. All applicants shall submit an applicant photograph.

19 F. The Authority shall review the medical marijuana business
20 application, approve or reject the application and mail the
21 approval, rejection or status-update letter to the applicant within
22 ninety (90) days of receipt of the application.

1 G. 1. The Authority shall review the medical marijuana
2 business applications and conduct all investigations, inspections
3 and interviews before approving the application.

4 2. Approved applicants shall be issued a medical marijuana
5 business license for the specific category applied under which shall
6 act as proof of their approved status. Rejection letters shall
7 provide a reason for the rejection. Applications may only be
8 rejected based on the applicant not meeting the standards set forth
9 in the provisions of this section, improper completion of the
10 application, or for a reason provided for in ~~this act~~ the Oklahoma
11 Medical Marijuana and Patient Protection Act. If an application is
12 rejected for failure to provide required information, the applicant
13 shall have thirty (30) days to submit the required information for
14 reconsideration. No additional application fee shall be charged for
15 such reconsideration.

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

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

23 H. A medical marijuana business license shall not be issued to
24 or held by:

1 1. A person until all required fees have been paid;

2 2. A person who has been convicted of a nonviolent felony
3 within two (2) years of the date of application, or within five (5)
4 years for any other felony;

5 3. A corporation, if the criminal history of any of its
6 officers, directors or stockholders indicates that the officer,
7 director or stockholder has been convicted of a nonviolent felony
8 within two (2) years of the date of application, or within five (5)
9 years for any other felony;

10 4. A person under twenty-five (25) years of age;

11 5. A person licensed pursuant to this section who, during a
12 period of licensure, or who, at the time of application, has failed
13 to:

14 a. file taxes, interest or penalties due related to a
15 medical marijuana business, or

16 b. pay taxes, interest or penalties due related to a
17 medical marijuana business;

18 6. A sheriff, deputy sheriff, police officer or prosecuting
19 officer, or an officer or employee of the Authority or municipality;

20 7. A person whose authority to be a caregiver as defined in
21 ~~this act~~ Section 427.2 of this title has been revoked by the State
22 Department of Health; or

23 8. A publicly traded company.
24

1 I. In investigating the qualifications of an applicant or a
2 licensee, the Department, Authority and municipalities may have
3 access to criminal history record information furnished by a
4 criminal justice agency subject to any restrictions imposed by such
5 an agency. In the event the Department considers the criminal
6 history record of the applicant, the Department shall also consider
7 any information provided by the applicant regarding such criminal
8 history record, including but not limited to evidence of
9 rehabilitation, character references and educational achievements,
10 especially those items pertaining to the period of time between the
11 last criminal conviction of the applicant and the consideration of
12 the application for a state license.

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

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

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

7 M. All medical marijuana business licensees shall pay the
8 relevant licensure fees prior to receiving licensure to operate a
9 medical marijuana business, as defined in ~~this act~~ Section 427.2 of
10 this title for each class of license.

11 SECTION 2. AMENDATORY Section 16, Chapter 11, O.S.L.
12 2019 (63 O.S. Supp. 2019, Section 427.16), is amended to read as
13 follows:

14 Section 427.16 A. There is hereby created a medical marijuana
15 transporter license as a category of the medical marijuana business
16 license.

17 B. Pursuant to Section 424 of ~~Title 63 of the Oklahoma Statutes~~
18 this title, the Oklahoma Medical Marijuana Authority shall issue a
19 medical marijuana transporter license to licensed medical marijuana
20 commercial growers, processors and dispensaries upon issuance of
21 such licenses and upon each renewal.

22 C. A medical marijuana transporter license may also be issued
23 to qualifying applicants who are registered with the Oklahoma
24 Secretary of State and otherwise meet the requirements for a medical

1 marijuana business license set forth in ~~this act~~ Section 427.14 of
2 this title and the requirements set forth in this section to provide
3 logistics, distribution and storage of medical marijuana, medical
4 marijuana concentrate and medical marijuana products.

5 D. A medical marijuana transporter license shall be valid for
6 one (1) year and shall not be transferred with a change of
7 ownership. A licensed medical marijuana transporter shall be
8 responsible for all medical marijuana, concentrate and products once
9 the transporter takes control of the product.

10 E. A transporter license shall be required for any person or
11 entity to transport or transfer medical marijuana, concentrate or
12 product from a licensed medical marijuana business to another
13 medical marijuana business, or from a medical marijuana business to
14 a medical marijuana research facility or medical marijuana education
15 facility.

16 F. A medical marijuana transporter licensee may contract with
17 multiple licensed medical marijuana businesses.

18 G. A medical marijuana transporter may maintain a licensed
19 premises to temporarily store medical marijuana, concentrate and
20 products and to use as a centralized distribution point. A medical
21 marijuana transporter may store and distribute medical marijuana,
22 concentrate and products from the licensed premises. The licensed
23 premises shall meet all security requirements applicable to a
24 medical marijuana business.

1 H. A medical marijuana transporter licensee shall use the seed-
2 to-sale tracking system developed pursuant to Section 427.13 of this
3 ~~act~~ title to create shipping manifests documenting the transport of
4 medical marijuana, concentrate and products throughout the state.

5 I. A licensed medical marijuana transporter may maintain and
6 operate one or more warehouses in the state to handle medical
7 marijuana, concentrate and products.

8 J. All medical marijuana, concentrate and product shall be
9 transported:

10 1. ~~In vehicles equipped with Global Positioning System (GPS)~~
11 ~~trackers;~~

12 2. In a locked container and clearly labeled "Medical Marijuana
13 or Derivative"; and

14 3. 2. In a secured area of the vehicle that is not accessible
15 by the driver during transit.

16 K. A transporter agent may possess marijuana at any location
17 while the transporter agent is transferring marijuana to or from a
18 licensed medical marijuana business, medical marijuana research
19 facility or medical marijuana education facility. The State
20 Department of Health shall administer and enforce the provisions of
21 this section concerning transportation.

22 L. The Authority shall issue a transporter agent license to
23 individual agents, employees, officers or owners of a transporter
24

1 license in order for the individual to qualify to transport medical
2 marijuana or product.

3 M. The annual fee for a transporter agent license shall be ~~One~~
4 ~~Hundred Dollars (\$100.00)~~ Twenty-five Dollars (\$25.00) and shall be
5 paid by the transporter license holder or the individual applicant.

6 N. The Authority shall issue each transporter agent a registry
7 identification card within thirty (30) days of receipt of:

8 1. The name, address and date of birth of the person;

9 2. ~~Proof of residency as required for a medical marijuana~~
10 ~~business license;~~

11 ~~3.~~ Proof of identity as required for a medical marijuana
12 business license;

13 ~~4.~~ 3. Possession of a valid Oklahoma driver license;

14 ~~5.~~ 4. Verification of employment with a licensed transporter;

15 ~~6.~~ 5. The application and affiliated fee; and

16 ~~7.~~ 6. A criminal background check conducted by the Oklahoma
17 State Bureau of Investigation, paid for by the applicant.

18 O. If the transporter agent application is denied, the
19 Department shall notify the transporter in writing of the reason for
20 denying the registry identification card.

21 P. A registry identification card for a transporter shall
22 expire one (1) year after the date of issuance or upon notification
23 from the holder of the transporter license that the transporter
24 agent ceases to work as a transporter.

1 Q. The Department may revoke the registry identification card
2 of a transporter agent who knowingly violates any provision of this
3 section, and the transporter is subject to any other penalties
4 established by law for the violation.

5 R. The State Department of Health may revoke or suspend the
6 transporter license of a transporter that the Department determines
7 knowingly aided or facilitated a violation of any provision of this
8 section, and the licenseholder is subject to any other penalties
9 established in law for the violation.

10 S. Vehicles used in the transport of medical marijuana or
11 medical marijuana product shall be:

- 12 1. Insured at or above the legal requirements in Oklahoma;
- 13 2. Capable of securing medical marijuana during transport; and
- 14 3. In possession of a shipping container as defined in ~~this act~~
15 Section 427.2 of this title capable of securing all transported
16 product.

17 T. Prior to the transport of any medical marijuana or products,
18 an inventory manifest shall be prepared at the origination point of
19 the medical marijuana. The inventory manifest shall include the
20 following information:

- 21 1. For the origination point of the medical marijuana:
 - 22 a. the licensee number for the commercial grower,
23 processor or dispensary,
 - 24 b. address of origination of transport, and

1 c. name and contact information for the originating
2 licensee;

3 2. For the end recipient license holder of the medical
4 marijuana:

5 a. the license number for the dispensary, commercial
6 grower, processor, research facility or education
7 facility destination,

8 b. address of the destination, and

9 c. name and contact information for the destination
10 licensee;

11 3. Quantities by weight or unit of each type of medical
12 marijuana product contained in transport;

13 4. The date of the transport and the approximate time of
14 departure;

15 5. The arrival date and estimated time of arrival;

16 6. Printed names and signatures of the personnel accompanying
17 the transport; and

18 7. Notation of the transporting licensee.

19 U. 1. A separate inventory manifest shall be prepared for each
20 licensee receiving the medical marijuana.

21 2. The transporter agent shall provide the other medical
22 marijuana business with a copy of the inventory manifest at the time
23 the product changes hands and after the other licensee prints his or
24 her name and signs the inventory manifest.

1 3. An inventory manifest shall not be altered after departing
2 the originating premises other than in cases where the printed name
3 and signature of receipt by the receiving licensee is necessary.

4 4. A receiving licensee shall refuse to accept any medical
5 marijuana or product that is not accompanied by an inventory
6 manifest.

7 5. Originating and receiving licensees shall maintain copies of
8 inventory manifests and logs of quantities of medical marijuana
9 received for three (3) years from date of receipt.

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

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