

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1961 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Scott Fetgatter _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1961

By: Fetgatter

7 PROPOSED COMMITTEE SUBSTITUTE

8 An Act relating to marijuana; ordering a legislative
9 referendum pursuant to the Oklahoma Constitution;
10 creating the Oklahoma Adult Access to Marijuana Act
11 of 2021; defining terms; providing list of acts
12 deemed lawful for consumers; providing list of acts
13 deemed lawful for licensed medical marijuana
14 dispensaries; establishing privacy protections;
15 declaring rights, privileges and protections for
16 certain persons; providing for the levy of an excise
17 tax on sales; setting procedures for remittance;
18 providing for the collection of state and local sales
19 taxes; providing construing provision; directing the
20 Oklahoma Medical Marijuana Authority to promulgate
21 rules; providing an effective date; providing a
22 ballot title; and directing filing.

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

24 SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma
Constitution, there is hereby ordered the following legislative
referendum which shall be filed with the Secretary of State and
addressed to the Governor of the state, who shall submit the same to
the people for their approval or rejection at the General Election,
to be held on November 8, 2022.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 441 of Title 63, unless there is
3 created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Oklahoma Adult
5 Access to Marijuana Act of 2021".

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 442 of Title 63, unless there is
8 created a duplication in numbering, reads as follows:

9 As used in this act:

10 1. "Authority" means the Oklahoma Medical Marijuana Authority,
11 or its successor in interest;

12 2. "Consumer" means a person twenty-one (21) years of age or
13 older who purchases marijuana or marijuana products for his or her
14 own personal use, but not for resale to others;

15 3. "Dispensary" means a marijuana dispensary, an entity that
16 has been licensed by the Oklahoma Medical Marijuana Authority to:

17 a. purchase marijuana or marijuana products from licensed
18 medical marijuana commercial growers or licensed
19 medical marijuana processors,

20 b. sell or transfer products to another marijuana
21 dispensary, or

22 c. sell medical marijuana or medical marijuana products
23 to licensed medical marijuana patients, licensed
24 caregivers or consumers;

1 4. "Government-issued identification" means a valid government-
2 issued driver license, government-issued photo identification card,
3 unexpired United States Passport or tribal citizenship
4 identification card;

5 5. "Marijuana" shall have the same meaning as such term is
6 defined in Section 2-101 of Title 63 of the Oklahoma Statutes and
7 shall also include delta-8 and delta-10 tetrahydrocannabinol with a
8 concentration in excess of three-tenths of one percent (0.03%) on a
9 dry weight basis;

10 6. "Marijuana accessories" means any equipment, products or
11 materials of any kind which are used, intended for use or designed
12 for ingesting, inhaling, vaporizing, converting or otherwise
13 consuming or using marijuana; and

14 7. "Marijuana product" or "product" means any product that
15 contains marijuana, including marijuana extracted from plant
16 material or the resin therefrom by physical or chemical means, and
17 is intended for use or consumption including, but not limited to,
18 oils, tinctures, edibles, pills, topical forms, gels, creams,
19 vapors, patches, liquids and forms administered by a nebulizer.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 443 of Title 63, unless there is
22 created a duplication in numbering, reads as follows:

23 The following acts are not unlawful and shall not be an offense
24 under Oklahoma law or the law of any political subdivision within

1 this state or be a basis for seizure or forfeiture of assets under
2 Oklahoma law for persons twenty-one (21) years of age or older:

3 1. Possessing, using, displaying, purchasing or transporting
4 twenty-eight and three-tenths (28.3) grams or less of retail
5 marijuana, fourteen and one-tenth (14.1) grams or less of retail
6 concentrated marijuana, six hundred eighty and three-tenths (680.3)
7 grams or less of retail edible marijuana or marijuana accessories;

8 2. Transferring without remuneration twenty-eight and three-
9 tenths (28.3) grams or less of retail marijuana, fourteen and one-
10 tenth (14.1) grams or less of retail concentrated marijuana or six
11 hundred eighty and three-tenths (680.3) grams or less of retail
12 edible marijuana to a person who is twenty-one (21) years of age or
13 older;

14 3. Consuming marijuana, provided that all smokeable, vaporized,
15 vapable and e-cigarette marijuana products inhaled through
16 vaporization or smoked by a person are subject to the same
17 restrictions for tobacco under Section 1-1521 of Title 63 of the
18 Oklahoma Statutes commonly referred to as the "Smoking in Public
19 Places and Indoor Workplaces Act; and

20 4. Assisting another person who is twenty-one (21) years of age
21 or older in any of the acts described in paragraphs 1 through 3 of
22 this section.

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1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 444 of Title 63, unless there is
3 created a duplication in numbering, reads as follows:

4 The following acts are not unlawful and shall not be an offense
5 under Oklahoma law or be a basis for seizure or forfeiture of assets
6 under Oklahoma law:

7 1. The sale of marijuana or marijuana products by a licensed
8 medical marijuana dispensary to a person, upon presentment of
9 government-issued identification, who is twenty-one (21) years of
10 age or older and who does not possess an Oklahoma medical marijuana
11 patient license;

12 2. The purchase of marijuana or marijuana products by a medical
13 marijuana dispensary from a person or entity that holds a valid
14 medical marijuana business license issued by the Oklahoma Medical
15 Marijuana Authority for retail sale to persons twenty-one (21) years
16 of age or older; provided that, such dispensary holds a valid
17 license to operate a medical marijuana dispensary issued by the
18 Oklahoma Medical Marijuana Authority; and

19 3. Leasing or otherwise allowing the use of property owned,
20 occupied or controlled by any person, corporation or other entity
21 for any of the activities conducted lawfully in accordance with
22 paragraphs 1 and 2 of this section.

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1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 445 of Title 63, unless there is
3 created a duplication in numbering, reads as follows:

4 A. In order to ensure that individual privacy is protected, the
5 Oklahoma Medical Marijuana Authority shall not require a consumer to
6 provide a licensed medical marijuana dispensary with personal
7 information other than government-issued identification to determine
8 the age of the consumer. In addition, the licensed medical
9 marijuana dispensary shall not be required to acquire and record
10 personal information about consumers other than information
11 typically acquired in a financial transaction conducted at a retail
12 establishment.

13 B. Any person who lawfully possesses, uses, displays, purchases
14 or transports any marijuana or marijuana products in accordance with
15 the provisions of Section 4 of this act shall enjoy the same rights,
16 privileges and protections as, but not greater than, a licensed
17 medical marijuana patient as provided for in Sections 425 and 427.8
18 of Title 63 of the Oklahoma Statutes.

19 SECTION 7. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 446 of Title 63, unless there is
21 created a duplication in numbering, reads as follows:

22 A. An excise tax of fifteen percent (15%) is hereby levied and
23 imposed upon all marijuana or marijuana products sold by a licensed
24 medical marijuana dispensary to any person twenty-one (21) years of

1 age or older who does not possess a valid medical marijuana patient
2 license or valid caregiver license issued by the Oklahoma Medical
3 Marijuana Authority.

4 B. For purposes of this section, the sale of marijuana or
5 marijuana products shall include the sale of any item, membership,
6 voucher, coupon or other redeemable product which can be, at any
7 time, exchanged, converted, used or otherwise presented to a medical
8 marijuana dispensary in order to receive marijuana or marijuana
9 products.

10 C. The excise tax shall be calculated based on the gross sales
11 price of the marijuana or marijuana products prior to any discounts
12 being applied including discounts associated with the purchase of
13 any other product.

14 D. The due and payable excise tax levied by this section shall
15 be remitted to the Oklahoma Tax Commission using procedures
16 prescribed by the Tax Commission. All monies collected under the
17 provisions of this act shall be transmitted monthly to the State
18 Treasurer of the State of Oklahoma to be placed to the credit of the
19 General Revenue Fund of the state, to be paid out only pursuant to
20 direct appropriations of the Legislature.

21 E. The retail sale of marijuana or marijuana products shall be
22 subject to the Oklahoma Sales Tax Code and to any municipal or
23 county sales taxes.

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1 SECTION 8. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 447 of Title 63, unless there is
3 created a duplication in numbering, reads as follows:

4 A. Nothing in this act shall be construed to allow driving
5 under the influence of marijuana, driving while impaired by
6 marijuana or to supersede statutory laws related to driving under
7 the influence of marijuana or driving while impaired by marijuana.

8 B. Nothing in this act shall be construed to permit the
9 transfer of marijuana, with or without remuneration, to a person
10 under twenty-one (21) years of age or to allow a person under
11 twenty-one (21) years of age to purchase, possess, use, transport or
12 consume marijuana.

13 C. Nothing in this act shall require an employer to permit or
14 accommodate conduct otherwise allowed by this act in any workplace
15 or on the property of the employer. This act does not prohibit an
16 employer from disciplining an employee for violation of a workplace
17 drug policy or for working while under the influence of marijuana.
18 This act does not prevent an employer from discharging, disciplining
19 or otherwise taking an adverse employment action against a person
20 with respect to tenure, terms, conditions or privileges of
21 employment because of a violation by the person of a workplace drug
22 policy or because the person was working while under the influence
23 of marijuana.

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1 D. Nothing in this act shall be construed to prohibit a person
2 from regulating the consumption, sale or display of marijuana and
3 marijuana products on property the person owns, occupies or manages.

4 E. Nothing in this act shall be construed to allow for the
5 consumption of marijuana or possession of marijuana or marijuana
6 products on the grounds of any public or private elementary school,
7 public or private secondary school or any public or private college,
8 university or technology center school.

9 F. Nothing in this act shall be construed to limit or otherwise
10 impact any privileges or rights of a licensed medical marijuana
11 patient, licensed caregiver or licensed medical marijuana business
12 as provided in Sections 420 through 426.1 of Title 63 of the
13 Oklahoma Statutes and the Oklahoma Medical Marijuana and Patient
14 Protection Act.

15 SECTION 9. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 448 of Title 63, unless there is
17 created a duplication in numbering, reads as follows:

18 The Oklahoma Medical Marijuana Authority shall promulgate rules
19 to implement the provisions of this act.

20 SECTION 10. This act shall become effective January 1, 2023, if
21 approved by the people.

22 SECTION 11. The Ballot Title for the proposed act shall be in
23 the following form:

24 BALLOT TITLE

1 Legislative Referendum No. _____ State Question No. _____

2 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

3 This measure would allow limited possession, use and purchase of
4 marijuana or marijuana products to persons twenty-one (21) years
5 of age or older. A licensed medical marijuana dispensary would
6 be authorized to sell marijuana or marijuana products to persons
7 twenty-one (21) years of age or older. The measure would impose
8 an excise tax of fifteen percent (15%) on marijuana sales as
9 well as state and local sales taxes. This measure would be
10 effective January 1, 2023.

11 SHALL THE PROPOSAL BE APPROVED?

12 FOR THE PROPOSAL - YES _____

13 AGAINST THE PROPOSAL - NO _____

14 SECTION 12. The Chief Clerk of the House of Representatives,
15 immediately after the passage of this act, shall prepare and file
16 one copy thereof, including the Ballot Title set forth in SECTION 11
17 hereof, with the Secretary of State and one copy with the Attorney
18 General.

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20 58-1-7283 GRS 01/27/21

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