

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1704 _____
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: Dick Lowe

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 PROPOSED
4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1704

By: Paxton of the Senate

and

Lowe (Dick) of the House

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10 PROPOSED COMMITTEE SUBSTITUTE

11 [medical marijuana - monitoring and disciplinary
12 actions - scope of penalties - inaccurate or
13 fraudulent reporting - effective date]

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

17 SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.6, as
18 last amended by Section 11, Chapter 553, O.S.L. 2021, is amended to
19 read as follows:

20 Section 427.6 A. The State Department of Health shall address
21 issues related to the medical marijuana program in Oklahoma
22 including, but not limited to, monitoring and disciplinary actions
23 as they relate to the medical marijuana program.

1 B. 1. The Department or its designee may perform on-site
2 inspections or investigations of a licensee or applicant for any
3 medical marijuana business license, research facility, education
4 facility or waste disposal facility to determine compliance with
5 applicable laws, rules and regulations or submissions made pursuant
6 to this section. The Department may enter the licensed premises of
7 a medical marijuana business, research facility, education facility
8 or waste disposal facility licensee or applicant to assess or
9 monitor compliance or ensure qualifications for licensure.

10 2. Post-licensure inspections shall be limited to twice per
11 calendar year. However, investigations and additional inspections
12 may occur when the Department believes an investigation or
13 additional inspection is necessary due to a possible violation of
14 applicable laws, rules or regulations. The State Commissioner of
15 Health may adopt rules imposing penalties including, but not limited
16 to, monetary fines and suspension or revocation of licensure for
17 failure to allow the Authority reasonable access to the licensed
18 premises for purposes of conducting an inspection.

19 3. The Department may review relevant records of a licensed
20 medical marijuana business, licensed medical marijuana research
21 facility, licensed medical marijuana education facility or licensed
22 medical marijuana waste disposal facility, and may require and
23 conduct interviews with such persons or entities and persons
24 affiliated with such entities, for the purpose of determining

1 compliance with Department requirements and applicable laws, rules
2 and regulations.

3 4. The Department may refer complaints alleging criminal
4 activity that are made against a licensee to appropriate Oklahoma
5 state or local law enforcement authorities.

6 C. Disciplinary action may be taken against an applicant or
7 licensee for not adhering to applicable laws pursuant to the terms,
8 conditions and guidelines set forth in the Oklahoma Medical
9 Marijuana and Patient Protection Act.

10 D. Disciplinary actions may include revocation, suspension or
11 denial of an application, license or final authorization and other
12 action deemed appropriate by the Department.

13 E. Disciplinary actions may be imposed upon a medical marijuana
14 business licensee for:

15 1. Failure to comply with or satisfy any provision of
16 applicable laws, rules or regulations;

17 2. Falsification or misrepresentation of any material or
18 information submitted to the Department or other licensees;

19 3. Failing to allow or impeding entry by authorized
20 representatives of the Department;

21 4. Failure to adhere to any acknowledgement, verification or
22 other representation made to the Department;

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1 5. Failure to submit or disclose information required by
2 applicable laws, rules or regulations or otherwise requested by the
3 Department;

4 6. Failure to correct any violation of this section cited as a
5 result of a review or audit of financial records or other materials;

6 7. Failure to comply with requested access by the Department to
7 the licensed premises or materials;

8 8. Failure to pay a required monetary penalty;

9 9. Diversion of medical marijuana or any medical marijuana
10 product, as determined by the Department;

11 10. Threatening or harming a medical marijuana patient
12 licensee, caregiver licensee, a medical practitioner or an employee
13 of the Department; and

14 11. Any other basis indicating a violation of the applicable
15 laws and regulations as identified by the Department.

16 F. Disciplinary actions against a licensee may include the
17 imposition of monetary penalties, which may be assessed by the
18 Department. The Department may suspend or revoke a license for
19 failure to pay any monetary penalty lawfully assessed by the
20 Department against a licensee.

21 G. Penalties for sales ~~or~~, purchases, or transfers of value of
22 medical marijuana by a medical marijuana business or employees or
23 agents of the medical marijuana business to persons other than those
24 allowed by law occurring within any ~~two-year~~ one-year time period

1 may include an initial fine of ~~One Thousand Dollars (\$1,000.00)~~ Five
2 Thousand Dollars (\$5,000.00) for a first violation and a fine of
3 ~~Five Thousand Dollars (\$5,000.00)~~ Fifteen Thousand Dollars
4 (\$15,000.00) for any subsequent violation. Penalties for grossly
5 inaccurate or fraudulent reporting occurring within any two-year
6 time period may include an initial administrative fine of Five
7 Thousand Dollars (\$5,000.00) for a first violation and ~~a~~ an
8 administrative fine of Ten Thousand Dollars (\$10,000.00) for any
9 subsequent violation. The medical marijuana business ~~may~~ shall be
10 subject to a revocation of any license granted pursuant to the
11 Oklahoma Medical Marijuana and Patient Protection Act upon a ~~showing~~
12 ~~that the violation was willful or grossly negligent~~ second incident
13 of grossly inaccurate or fraudulent reporting in a ten-year period
14 by the business or any employee or agent thereof.

15 H. 1. First offense for intentional and impermissible
16 diversion of medical marijuana, concentrate, or products by a
17 patient or caregiver to an unauthorized person shall not be punished
18 under a criminal statute but may be subject to a fine of Two Hundred
19 Dollars (\$200.00).

20 2. The second offense for impermissible diversion of medical
21 marijuana, concentrate, or products by a patient or caregiver to an
22 unauthorized person shall not be punished under a criminal statute
23 but may be subject to a fine of not to exceed Five Hundred Dollars
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1 (\$500.00) and may result in revocation of the license upon a showing
2 that the violation was willful or grossly negligent.

3 I. The intentional diversion of medical marijuana, medical
4 marijuana concentrate or medical marijuana products by a licensed
5 medical marijuana patient or caregiver, medical marijuana business
6 or employee of a medical marijuana business to an unauthorized minor
7 person who the licensed medical marijuana patient or caregiver,
8 medical marijuana business or employee of a medical marijuana
9 business knew or reasonably should have known to be a minor person
10 shall be subject to a cite and release citation and, upon a finding
11 of guilt or a plea of no contest, a fine of Two Thousand Five
12 Hundred Dollars (\$2,500.00). For a second or subsequent offense,
13 the licensed medical marijuana patient or caregiver, medical
14 marijuana business or employee of a medical marijuana business shall
15 be subject to a cite and release citation and, upon a finding of
16 guilt or a plea of no contest, a fine of Five Thousand Dollars
17 (\$5,000.00) and automatic termination of the medical marijuana
18 license.

19 J. Nothing in this section shall be construed to prevent the
20 criminal prosecution, after the presentation of evidence and a
21 finding beyond a reasonable doubt, of a licensed medical marijuana
22 patient or caregiver, medical marijuana business or employee of a
23 medical marijuana business who has diverted medical marijuana,
24 medical marijuana concentrate or medical marijuana products to an

1 unauthorized person with the intent or knowledge that the
2 unauthorized person was to engage in the distribution or trafficking
3 of medical marijuana, medical marijuana concentrate or medical
4 marijuana products.

5 K. In addition to any other remedies provided for by law, the
6 Department, pursuant to its rules and regulations, may issue a
7 written order to any licensee the Department has reason to believe
8 has violated Sections 420 through 426.1 of this title, the Oklahoma
9 Medical Marijuana and Patient Protection Act, the Oklahoma Medical
10 Marijuana Waste Management Act, or any rules promulgated by the
11 State Commissioner of Health and to whom the Department has served,
12 not less than thirty (30) days previously, a written notice of
13 violation of such statutes or rules.

14 1. The written order shall state with specificity the nature of
15 the violation. The Department may impose any disciplinary action
16 authorized under the provisions of this section including, but not
17 limited to, the assessment of monetary penalties.

18 2. Any order issued pursuant to the provisions of this section
19 shall become a final order unless, not more than thirty (30) days
20 after the order is served to the licensee, the licensee requests an
21 administrative hearing in accordance with the rules and regulations
22 of the Department. Upon such request, the Department shall promptly
23 initiate administrative proceedings.

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1 L. Whenever the Department finds that an emergency exists
2 requiring immediate action in order to protect the health or welfare
3 of the public, the Department may issue an order, without providing
4 notice or hearing, stating the existence of said emergency and
5 requiring that action be taken as the Department deems necessary to
6 meet the emergency. Such action may include, but is not limited to,
7 ordering the licensee to immediately cease and desist operations by
8 the licensee. The order shall be effective immediately upon
9 issuance. Any person to whom the order is directed shall comply
10 immediately with the provisions of the order. The Department may
11 assess a penalty not to exceed Ten Thousand Dollars (\$10,000.00) per
12 day of noncompliance with the order. In assessing such a penalty,
13 the Department shall consider the seriousness of the violation and
14 any efforts to comply with applicable requirements. Upon
15 application to the Department, the licensee shall be offered a
16 hearing within ten (10) days of the issuance of the order.

17 M. All hearings held pursuant to this section shall be in
18 accordance with the Oklahoma Administrative Procedures Act.

19 SECTION 2. This act shall become effective November 1, 2022.
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21 58-2-11274 GRS 04/12/22
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