

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 1033

6 By: Leewright

7 COMMITTEE SUBSTITUTE

8 An Act relating to medical marijuana; amending  
9 Section 6, State Question No. 788, Initiative  
10 Petition No. 412, as last amended by Section 46,  
11 Chapter 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section  
12 425), which relates to retail marijuana  
13 establishments; construing provisions; adding  
14 definition; amending Section 14, Chapter 11, O.S.L.  
15 2019, as last amended by Section 51, Chapter 161,  
16 O.S.L. 2020 (63 O.S. Supp. 2020, Section 427.14),  
17 which relates to the Oklahoma Medical Marijuana and  
18 Patient Protection Act; grandfathering certain  
19 licensed location; allowing license transfer under  
20 certain conditions; and providing an effective date.

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

22 SECTION 1. AMENDATORY Section No. 6, State Question No.  
23 788, Initiative Petition No. 412, as last amended by Section 46,  
24 Chapter 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section 425), is  
amended to read as follows:

Section 425. A. No school or landlord may refuse to enroll or  
lease to and may not otherwise penalize a person solely for his or  
her status as a medical marijuana license holder, unless failing to  
do so would cause the school or landlord the potential to lose a

1 monetary or licensing-related benefit under federal law or  
2 regulations.

3 B. Unless a failure to do so would cause an employer the  
4 potential to lose a monetary or licensing-related benefit under  
5 federal law or regulations, an employer may not discriminate against  
6 a person in hiring, termination or imposing any term or condition of  
7 employment or otherwise penalize a person based upon either:

8 1. The status of the person as a medical marijuana license  
9 holder; or

10 2. Employers may take action against a holder of a medical  
11 marijuana license if the holder uses or possesses marijuana while in  
12 his or her place of employment or during the hours of employment.  
13 Employers may not take action against the holder of a medical  
14 marijuana license solely based upon the status of an employee as a  
15 medical marijuana license holder or the results of a drug test  
16 showing positive for marijuana or its components.

17 C. For the purposes of medical care, including organ  
18 transplants, the authorized use of marijuana by a medical marijuana  
19 license holder shall be considered the equivalent of the use of any  
20 other medication under the direction of a physician and does not  
21 constitute the use of an illicit substance or otherwise disqualify a  
22 registered qualifying patient from medical care.

23 D. No medical marijuana license holder may be denied custody of  
24 or visitation or parenting time with a minor, and there is no

1 presumption of neglect or child endangerment for conduct allowed  
2 under this law, unless the behavior of the person creates an  
3 unreasonable danger to the safety of the minor.

4 E. No person holding a medical marijuana license may unduly be  
5 withheld from holding a state-issued license by virtue of their  
6 being a medical marijuana license holder including, but not limited  
7 to, a concealed carry permit.

8 F. 1. No city or local municipality may unduly change or  
9 restrict zoning laws to prevent the opening of a retail marijuana  
10 establishment.

11 2. For purposes of this subsection, an undue change or  
12 restriction of municipal zoning laws means an act which entirely  
13 prevents retail marijuana establishments from operating within  
14 municipal boundaries as a matter of law. Municipalities may follow  
15 their standard planning and zoning procedures to determine if  
16 certain zones or districts would be appropriate for locating  
17 marijuana-licensed premises, medical marijuana businesses or any  
18 other premises where marijuana or its by-products are cultivated,  
19 grown, processed, stored or manufactured.

20 3. For purposes of this section, "retail marijuana  
21 establishment" means an entity licensed by the State Department of  
22 Health as a medical marijuana dispensary. Retail marijuana  
23 establishment does not include those other entities licensed by the  
24 Department as marijuana-licensed premises, medical marijuana

1 businesses or other facilities or locations where marijuana or any  
2 product containing marijuana or its by-products are cultivated,  
3 grown, processed, stored or manufactured.

4 G. The Except as otherwise provided in this subsection, the  
5 location of any retail marijuana establishment is specifically  
6 prohibited within one thousand (1,000) feet of any public or private  
7 school entrance. On and after November 1, 2019, if any public or  
8 private school exists or is established within one thousand (1,000)  
9 feet of any retail marijuana establishment after a license has been  
10 issued by the Authority for that location, the prohibited distance  
11 between properties shall not apply as long as the licensed property  
12 is used for its stated purpose. The Authority shall not deny any  
13 issuance or renewal of licensure, deny any transfer of licensure  
14 pursuant to a change in ownership or revoke any license due to  
15 mistake in measurement by the Authority or any change in public or  
16 private school usage after an initial license has been issued at the  
17 location. The licensed location shall be grandfathered by the  
18 Authority upon initial licensure as long as the property is used in  
19 accordance with the original licensed purpose. For purposes of this  
20 subsection, "public or private school" means any nursery school,  
21 preschool, elementary school, secondary school, college, university  
22 or career or technical school.

23 H. Research shall be provided for under this law. A researcher  
24 may apply to the State Department of Health for a special research

1 license. The license shall be granted, provided the applicant meets  
2 the criteria listed under subsection B of Section 421 of this title.  
3 Research license holders shall be required to file monthly  
4 consumption reports to the State Department of Health with amounts  
5 of marijuana used for research. Biomedical and clinical research  
6 which is subject to federal regulations and institutional oversight  
7 shall not be subject to State Department of Health oversight.

8 SECTION 2. AMENDATORY Section 14, Chapter 11, O.S.L.  
9 2019, as last amended by Section 51, Chapter 161, O.S.L. 2020, (63  
10 O.S. Supp. 2020, Section 427.14), is amended to read as follows:

11 Section 427.14. A. There is hereby created the medical  
12 marijuana business license, which shall include the following  
13 categories:

- 14 1. Medical marijuana commercial grower;
- 15 2. Medical marijuana processor;
- 16 3. Medical marijuana dispensary;
- 17 4. Medical marijuana transporter; and
- 18 5. Medical marijuana testing laboratory.

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

22 C. The Authority shall make available on its website in an  
23 easy-to-find location, applications for a medical marijuana  
24 business.

1 D. The nonrefundable application fee for a medical marijuana  
2 business license shall be Two Thousand Five Hundred Dollars  
3 (\$2,500.00).

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

6 1. All applications for licenses and registrations authorized  
7 pursuant to this section shall be made upon forms prescribed by the  
8 Authority;

9 2. Each application shall identify the city or county in which  
10 the applicant seeks to obtain licensure as a medical marijuana  
11 business;

12 3. Applicants shall submit a complete application to the  
13 ~~Department~~ Authority before the application may be accepted or  
14 considered;

15 4. All applications shall be complete and accurate in every  
16 detail;

17 5. All applications shall include all attachments or  
18 supplemental information required by the forms supplied by the  
19 Authority;

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

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

- 1 a. all applicants shall be age twenty-five (25) years of  
2 age or older,
- 3 b. any applicant applying as an individual shall show  
4 proof that the applicant is an Oklahoma resident  
5 pursuant to paragraph 11 of this subsection,
- 6 c. any applicant applying as an entity shall show that  
7 seventy-five percent (75%) of all members, managers,  
8 executive officers, partners, board members or any  
9 other form of business ownership are Oklahoma  
10 residents pursuant to paragraph 11 of this subsection,
- 11 d. all applying individuals or entities shall be  
12 registered to conduct business in ~~the State of~~  
13 ~~Oklahoma~~ this state,
- 14 e. all applicants shall disclose all ownership interests  
15 pursuant to ~~this act~~ the Oklahoma Medical Marijuana  
16 and Patient Protection Act, and
- 17 f. applicants shall not have been convicted of a  
18 nonviolent felony in the last two (2) years, and any  
19 other felony conviction within the last five (5)  
20 years, shall not be current inmates, or currently  
21 incarcerated in a jail or corrections facility;

22 8. There shall be no limit to the number of medical marijuana  
23 business licenses or categories that an individual or entity can  
24 apply for or receive, although each application and each category

1 shall require a separate application and application fee. A  
2 commercial grower, processor and dispensary, or any combination  
3 thereof, are authorized to share the same address or physical  
4 location, subject to the restrictions set forth in ~~this act~~ the  
5 Oklahoma Medical Marijuana and Patient Protection Act;

6 9. All applicants for a medical marijuana business license,  
7 research facility license or education facility license authorized  
8 by ~~this act~~ the Oklahoma Medical Marijuana and Patient Protection  
9 Act shall undergo an Oklahoma criminal history background check  
10 conducted by the Oklahoma State Bureau of Investigation (OSBI)  
11 within thirty (30) days prior to the application for the license,  
12 including:

- 13 a. individual applicants applying on their own behalf,
- 14 b. individuals applying on behalf of an entity,
- 15 c. all principal officers of an entity, and
- 16 d. all owners of an entity as defined by ~~this act~~ Section  
17 427.2 of this title;

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

21 11. In order to be considered an Oklahoma resident for purposes  
22 of a medical marijuana business application, all applicants shall  
23 provide proof of Oklahoma residency for at least two (2) years  
24 immediately preceding the date of application or five (5) years of



1 continuous Oklahoma residency during the preceding twenty-five (25)  
2 years immediately preceding the date of application. Sufficient  
3 documentation of proof of residency shall include a combination of  
4 the following:

- 5 a. an unexpired Oklahoma-issued driver license,
- 6 b. an Oklahoma voter identification card,
- 7 c. a utility bill preceding the date of application,  
8 excluding cellular telephone and Internet bills,
- 9 d. a residential property deed to property in ~~the State~~  
10 ~~of Oklahoma~~ this state, and
- 11 e. a rental agreement preceding the date of application  
12 for residential property located in ~~the State of~~  
13 ~~Oklahoma~~ this state.

14 Applicants that were issued a medical marijuana business license  
15 prior to the enactment of the Oklahoma Medical Marijuana and Patient  
16 Protection Act are hereby exempt from the two-year or five-year  
17 Oklahoma residence requirement mentioned above;

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

22 13. All applicants shall establish their identity through  
23 submission of a color copy or digital image of one of the following  
24 unexpired documents:

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

11 14. All applicants shall submit an applicant photograph.

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

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

19 2. Approved applicants shall be issued a medical marijuana  
20 business license for the specific category applied under which shall  
21 act as proof of their approved status. Rejection letters shall  
22 provide a reason for the rejection. Applications may only be  
23 rejected based on the applicant not meeting the standards set forth  
24 in the provisions of this section, improper completion of the

1 application, or for a reason provided for in ~~this act~~ the Oklahoma  
2 Medical Marijuana and Patient Protection Act. If an application is  
3 rejected for failure to provide required information, the applicant  
4 shall have thirty (30) days to submit the required information for  
5 reconsideration. No additional application fee shall be charged for  
6 such reconsideration.

7 3. Status-update letters shall provide a reason for delay in  
8 either approval or rejection should a situation arise in which an  
9 application was submitted properly, but a delay in processing the  
10 application occurred.

11 4. Approval, rejection or status-update letters shall be sent  
12 to the applicant in the same method the application was submitted to  
13 the ~~Department~~ Authority.

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

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

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

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

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

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

5 a. file taxes, interest or penalties due related to a  
6 medical marijuana business, or

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

9 6. A sheriff, deputy sheriff, police officer or prosecuting  
10 officer, or an officer or employee of the Authority or municipality;  
11 or

12 7. A person whose authority to be a caregiver as defined in  
13 ~~this act~~ the Oklahoma Medical Marijuana and Patient Protection Act  
14 has been revoked by the ~~Department~~ Authority.

15 I. In investigating the qualifications of an applicant or a  
16 licensee, the ~~Department~~, Authority and municipalities may have  
17 access to criminal history record information furnished by a  
18 criminal justice agency subject to any restrictions imposed by such  
19 an agency. In the event the ~~Department~~ Authority considers the  
20 criminal history record of the applicant, the ~~Department~~ Authority  
21 shall also consider any information provided by the applicant  
22 regarding such criminal history record, including but not limited to  
23 evidence of rehabilitation, character references and educational  
24 achievements, especially those items pertaining to the period of

1 time between the last criminal conviction of the applicant and the  
2 consideration of the application for a state license.

3 J. The failure of an applicant to provide the requested  
4 information by the Authority deadline may be grounds for denial of  
5 the application.

6 K. All applicants shall submit information to the ~~Department~~  
7 ~~and~~ Authority in a full, faithful, truthful and fair manner. The  
8 ~~Department and~~ Authority may recommend denial of an application  
9 where the applicant made misstatements, omissions,  
10 misrepresentations or untruths in the application or in connection  
11 with the background investigation of the applicant. This type of  
12 conduct may be considered as the basis for additional administrative  
13 action against the applicant. Typos and scrivener errors shall not  
14 be grounds for denial.

15 L. A licensed medical marijuana business premises shall be  
16 subject to and responsible for compliance with applicable provisions  
17 for medical marijuana business facilities as described in the most  
18 recent versions of the Oklahoma Uniform Building Code, the  
19 International Building Code and the International Fire Code, unless  
20 granted an exemption by the Authority or municipality.

21 M. All medical marijuana business licensees shall pay the  
22 relevant licensure fees prior to receiving licensure to operate a  
23 medical marijuana business, as defined in ~~this act~~ the Oklahoma  
24

1 Medical Marijuana and Patient Protection Act for each class of  
2 license.

3 N. Any original license issued on or after November 1, 2019, by  
4 the Authority, for a medical marijuana commercial grower, a medical  
5 marijuana processor or a medical marijuana dispensary shall be  
6 deemed to have been vested on the date the original license was  
7 first issued for purposes of determining the location and authority  
8 of any business to conduct and continue the same type of business  
9 under a license issued by the Authority. Any change in ownership  
10 after the original licensure has been issued by the Authority shall  
11 be construed by the Authority to be a continuation of the same type  
12 of business originally licensed at such location. Nothing shall  
13 authorize the Authority to deny issuance of any new license, license  
14 renewal or transfer of license due to a change in ownership for the  
15 same business location previously licensed, except when a revocation  
16 has been adjudicated for a violation of the Oklahoma Medical  
17 Marijuana and Patient Protection Act.

18 SECTION 3. This act shall become effective November 1, 2021.

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