

SENATE CHAMBER
STATE OF OKLAHOMA

DISPOSITION

FLOOR AMENDMENT

No. _____

COMMITTEE AMENDMENT

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1033, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

Senator Leewright

Leewright-NP-FS-Req#1845
2/19/2021 12:23 PM

(Floor Amendments Only) Date and Time Filed: _____

Untimely

Amendment Cycle Extended

Secondary Amendment

1 STATE OF OKLAHOMA

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

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1033

6 By: Leewright of the Senate

7 and

8 Fetgatter of the House

9 FLOOR SUBSTITUTE

10 An Act relating to medical marijuana; amending
11 Section 6, State Question No. 788, Initiative
12 Petition No. 412, as last amended by Section 46,
13 Chapter 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section
14 425), which relates to retail marijuana
15 establishments; determining setback distance from
16 school; grandfathering certain locations; construing
17 provisions; adding definition; amending Section 14,
18 Chapter 11, O.S.L. 2019, as last amended by Section
19 51, Chapter 161, O.S.L. 2020 (63 O.S. Supp. 2020,
20 Section 427.14), which relates to the Oklahoma
21 Medical Marijuana and Patient Protection Act;
22 grandfathering certain licensed location; allowing
23 license transfer under certain conditions; providing
24 exception; amending Section 4, Chapter 509, O.S.L.
2019 (63 O.S. Supp. 2020, Section 426.1), which
relates to revocation and compliance; updating
statutory references; authorizing certain objection
to grandfather provisions; stating procedure for
municipal objection and documentation; making
objection discretionary; requiring certain Authority
to defer to municipal documentation; requiring
revocation under certain circumstance; requiring
certain documentation; defining term; and declaring
an emergency.

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

2 SECTION 1. AMENDATORY Section 6, State Question No. 788,
3 Initiative Petition No. 412, as last amended by Section 46, Chapter
4 161, O.S.L. 2020 (63 O.S. Supp. 2020, Section 425), is amended to
5 read as follows:

6 Section 425. A. No school or landlord may refuse to enroll or
7 lease to and may not otherwise penalize a person solely for his or
8 her status as a medical marijuana license holder, unless failing to
9 do so would cause the school or landlord the potential to lose a
10 monetary or licensing-related benefit under federal law or
11 regulations.

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

17 1. The status of the person as a medical marijuana license
18 holder; or

19 2. Employers may take action against a holder of a medical
20 marijuana license if the holder uses or possesses marijuana while in
21 his or her place of employment or during the hours of employment.

22 Employers may not take action against the holder of a medical
23 marijuana license solely based upon the status of an employee as a
24

1 medical marijuana license holder or the results of a drug test
2 showing positive for marijuana or its components.

3 C. For the purposes of medical care, including organ
4 transplants, the authorized use of marijuana by a medical marijuana
5 license holder shall be considered the equivalent of the use of any
6 other medication under the direction of a physician and does not
7 constitute the use of an illicit substance or otherwise disqualify a
8 registered qualifying patient from medical care.

9 D. No medical marijuana license holder may be denied custody of
10 or visitation or parenting time with a minor, and there is no
11 presumption of neglect or child endangerment for conduct allowed
12 under this law, unless the behavior of the person creates an
13 unreasonable danger to the safety of the minor.

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

18 F. 1. No city or local municipality may unduly change or
19 restrict zoning laws to prevent the opening of a retail marijuana
20 establishment.

21 2. For purposes of this subsection, an undue change or
22 restriction of municipal zoning laws means an act which entirely
23 prevents retail marijuana establishments from operating within
24 municipal boundaries as a matter of law. Municipalities may follow

1 their standard planning and zoning procedures to determine if
2 certain zones or districts would be appropriate for locating
3 marijuana-licensed premises, medical marijuana businesses or any
4 other premises where marijuana or its by-products are cultivated,
5 grown, processed, stored or manufactured.

6 3. For purposes of this section, "retail marijuana
7 establishment" means an entity licensed by the State Department of
8 Health as a medical marijuana dispensary. Retail marijuana
9 establishment does not include those other entities licensed by the
10 Department as marijuana-licensed premises, medical marijuana
11 businesses or other facilities or locations where marijuana or any
12 product containing marijuana or its by-products are cultivated,
13 grown, processed, stored or manufactured.

14 G. ~~The~~ Except as otherwise provided in this subsection, the
15 location of any retail marijuana establishment is specifically
16 prohibited within one thousand (1,000) feet of any public or private
17 school entrance. On and after the effective date of this act, for
18 purposes of calculating the 1,000-foot setback distance, the
19 measurement shall be determined by calculating the distance in a
20 straight line from the school door nearest the front door of the
21 retail marijuana establishment to the front door of the retail
22 marijuana establishment.

23 1. On and after November 1, 2019, if any public or private
24 school is established within one thousand (1,000) feet of any retail

1 marijuana establishment after a license has been issued by the
2 Authority for that location, the setback distance between properties
3 shall not apply as long as the licensed property is used for its
4 stated purpose. The licensed location shall be grandfathered in as
5 to the setback distance as long as the property is used in
6 accordance with the original licensed purpose.

7 2. On and after November 1, 2019, the Authority shall not deny
8 any issuance or renewal of a license, deny any transfer of license
9 pursuant to a change in ownership, revoke any license due to an
10 error in measurement of the setback distance or failure to measure
11 the setback distance by the Authority prior to issuance of an
12 initial license at the location and the retail marijuana
13 establishment shall be grandfathered in as to the setback distance,
14 subject only to the municipal compliance provisions of Section 426.1
15 of this title.

16 3. For purposes of this subsection:

17 a. "public or private school" means any nursery school,
18 preschool, kindergarten, elementary school, secondary
19 school, college, university or career or technical
20 school, and

21 b. "error in measurement" means a mistake made by the
22 Authority or a municipality in the setback measurement
23 process where either the distance between a retail
24 marijuana establishment and a public to private school

1 is miscalculated due to mathematical error or the
2 method used to measure the setback distance is
3 inconsistent with this section. The setback
4 measurement process is allowed an error in measurement
5 up to and including five hundred (500) feet when
6 remeasured after an original license has been issued.

7 H. Research shall be provided for under this law. A researcher
8 may apply to the State Department of Health for a special research
9 license. The license shall be granted, provided the applicant meets
10 the criteria listed under subsection B of Section 421 of this title.
11 Research license holders shall be required to file monthly
12 consumption reports to the State Department of Health with amounts
13 of marijuana used for research. Biomedical and clinical research
14 which is subject to federal regulations and institutional oversight
15 shall not be subject to State Department of Health oversight.

16 SECTION 2. AMENDATORY Section 14, Chapter 11, O.S.L.
17 2019, as last amended by Section 51, Chapter 161, O.S.L. 2020, (63
18 O.S. Supp. 2020, Section 427.14), is amended to read as follows:

19 Section 427.14. A. There is hereby created the medical
20 marijuana business license, which shall include the following
21 categories:

- 22 1. Medical marijuana commercial grower;
- 23 2. Medical marijuana processor;
- 24 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 in an
7 easy-to-find location, applications for a medical marijuana
8 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~~ Authority before the application may be accepted or
22 considered;

23 4. All applications shall be complete and accurate in every
24 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~~ this state,

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~~ the Oklahoma Medical Marijuana and Patient Protection
17 Act shall undergo an Oklahoma criminal history background check
18 conducted by the Oklahoma State Bureau of Investigation (OSBI)
19 within thirty (30) days prior to the application for the license,
20 including:

- 21 a. individual applicants applying on their own behalf,
- 22 b. individuals applying on behalf of an entity,
- 23 c. all principal officers of an entity, and

1 d. all owners of an entity as defined by ~~this act~~ Section
2 427.2 of this title;

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

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

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

23 Applicants that were issued a medical marijuana business license
24 prior to the enactment of the Oklahoma Medical Marijuana and Patient

1 Protection Act are hereby exempt from the two-year or five-year
2 Oklahoma residence requirement mentioned above;

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

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

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

20 14. All applicants shall submit an applicant photograph.

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

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 or
- 21 7. A person whose authority to be a caregiver as defined in
- 22 ~~this act~~ the Oklahoma Medical Marijuana and Patient Protection Act
- 23 has been revoked by the ~~Department~~ Authority.
- 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~~ Authority considers the
6 criminal history record of the applicant, the ~~Department~~ Authority
7 shall also consider any information provided by the applicant
8 regarding such criminal history record, including but not limited to
9 evidence of rehabilitation, character references and educational
10 achievements, especially those items pertaining to the period of
11 time between the last criminal conviction of the applicant and the
12 consideration of 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~~ the Oklahoma
10 Medical Marijuana and Patient Protection Act for each class of
11 license.

12 N. An original medical marijuana business license issued on or
13 after November 1, 2019, by the Authority, for a medical marijuana
14 commercial grower, a medical marijuana processor or a medical
15 marijuana dispensary shall be deemed to have been grandfathered into
16 the location on the date the original license was first issued for
17 purposes of determining the authority of the business to conduct and
18 continue the same type of business under a license issued by the
19 Authority, except as may be provided in Sections 425 and 426.1 of
20 this title. Any change in ownership after the original medical
21 business licensure has been issued by the Authority shall be
22 construed by the Authority to be a continuation of the same type of
23 business originally licensed at that location. Nothing shall
24 authorize the Authority to deny issuance or renewal of a license or

1 transfer of license due to a change in ownership for the same
2 business location previously licensed, except when a revocation is
3 otherwise authorized by law or a protest is made under the municipal
4 compliance provisions of Section 426.1 of this title.

5 SECTION 3. AMENDATORY Section 4, Chapter 509, O.S.L.
6 2019 (63 O.S. Supp. 2020, Section 426.1), is amended to read as
7 follows:

8 Section 426.1. A. Except for revocation hearings concerning
9 licensed patients, as defined in Section ~~2 of Enrolled House Bill~~
10 ~~No. 2612 of the 1st Session of the 57th Oklahoma Legislature~~ 427.1
11 of this title, all licensure revocation hearings conducted pursuant
12 to marijuana licenses established in the Oklahoma Statutes shall be
13 recorded. A party may request a copy of the recording of the
14 proceedings. Copies shall be provided to local law enforcement if
15 the revocation was based on alleged criminal activity.

16 B. The State Department of Health shall assist any law
17 enforcement officer in the performance of his or her duties upon
18 such request by the law enforcement officer or the request of other
19 local officials having jurisdiction. Except for license information
20 concerning licensed patients, as defined in Section ~~2 of Enrolled~~
21 ~~House Bill No. 2612 of the 1st Session of the 57th Oklahoma~~
22 ~~Legislature~~ 427.1 of this title, the Department shall share
23 information with law enforcement agencies upon request without a
24 subpoena or search warrant.

1 C. The State Department of Health shall make available all
2 information displayed on medical marijuana licenses, as well as
3 whether ~~or not~~ the license is valid, to law enforcement
4 electronically through the Oklahoma Law Enforcement
5 Telecommunications System.

6 D. The Department shall make available to political
7 subdivisions a list of marijuana-licensed premises, medical
8 marijuana businesses or any other premises where marijuana or its
9 by-products are licensed to be cultivated, grown, processed, stored
10 or manufactured to aid county and municipal governments in
11 identifying locations within their jurisdiction and ensure
12 compliance with local regulations.

13 E. 1. All marijuana-licensed premises, medical marijuana
14 businesses or any other premises where marijuana or its by-products
15 are licensed to be cultivated, grown, processed, stored or
16 manufactured shall submit with their application, after notifying
17 the political subdivision of their intent, a certificate of
18 compliance from the political subdivision where the facility of the
19 applicant or use is to be located certifying compliance with zoning
20 classifications, applicable municipal ordinances and all applicable
21 safety, electrical, fire, plumbing, waste, construction and building
22 specification codes.

23 2. Notwithstanding the grandfather provisions in Section 425 of
24 this title for a medical marijuana dispensary, upon the request for

1 renewal or transfer of a retail marijuana establishment license, a
2 municipal government may object to the continued licensure of the
3 medical marijuana dispensary when it is operating contrary to the
4 required setback distance from a public or private school including
5 the error in measurement allowance authorized by Section 425 of this
6 title. The municipal objection authorized by this subsection is
7 discretionary; however, if documentation for an objection is
8 submitted by the municipal government to the Oklahoma Medical
9 Marijuana Authority, the Oklahoma Medical Marijuana Authority shall
10 defer to the municipal government's documentation. Upon the
11 municipal government providing the documentation required by this
12 subsection, the Authority shall not renew or transfer the medical
13 marijuana dispensary license and shall cause the license to be
14 revoked.

15 3. To prevent the granting of the grandfather provisions of
16 Section 425 of this title as a matter of law, the municipal
17 government shall provide the following documentation to the Oklahoma
18 Medical Marijuana Authority prior to renewal or transfer of a
19 license:

20 a. a municipal resolution finding that the marijuana
21 dispensary is located within the prohibited setback
22 distance from a public or private school that was
23 openly in existence in such a way that the public
24 generally would have known of the school's existence

1 and operation in that location prior to the original
2 marijuana dispensary being licensed. For purposes of
3 this subparagraph, "openly in existence" means any
4 building, location or structure on a school site that
5 has visible outward markings indicating the building,
6 location or structure was operating as a school which
7 would serve as sufficient notice of the existence of
8 the school or a reason for further inquiry on the part
9 of the marijuana dispensary license applicant.

10 "Openly in existence" shall not mean any public or
11 private school that operated secretly or discreetly
12 without any signs or other markings on any building,
13 location or structure on the school site, undeveloped
14 land or a structure owned by a school that was not
15 openly used and marked as a school site, or any school
16 site that was established after the marijuana
17 dispensary had been established and licensed by the
18 Authority, and

19 b. documentation of the measured distance from the public
20 or private school to the marijuana dispensary
21 utilizing the method for determining the setback
22 distance less any allowable error in measurement
23 calculated and remeasured on and after the effective
24

1 date of this act as authorized by Section 425 of this
2 title.

3 SECTION 4. It being immediately necessary for the preservation
4 of the public peace, health or safety, an emergency is hereby
5 declared to exist, by reason whereof this act shall take effect and
6 be in full force from and after its passage and approval.

7
8 58-1-1845 NP 2/19/2021 12:23:46 PM