

1 **SENATE FLOOR VERSION**

2 April 14, 2022

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 3019

6 By: Fetgatter, Davis, Talley
7 and McDugle of the House

8 and

9 Leewright of the Senate

10 **[medical marijuana - certain warnings on container
11 labels - exit package at point of sale and transfer -
12 effective date]**

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

14 SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.2, is
15 amended to read as follows:

16 Section 427.2 As used in the Oklahoma Medical Marijuana and
17 Patient Protection Act:

18 1. "Advertising" means the act of providing consideration for
19 the publication, dissemination, solicitation, or circulation, of
20 visual, oral, or written communication to induce directly or
21 indirectly any person to patronize a particular medical marijuana
22 business, or to purchase particular medical marijuana or a medical
23 marijuana product. Advertising includes marketing, but does not
24 include packaging and labeling;

1 2. "Authority" means the Oklahoma Medical Marijuana Authority;

2 3. "Batch number" means a unique numeric or alphanumeric
3 identifier assigned prior to testing to allow for inventory tracking
4 and traceability;

5 4. "Cannabinoid" means any of the chemical compounds that are
6 active principles of marijuana;

7 5. "Caregiver" means a family member or assistant who regularly
8 looks after a medical marijuana patient license holder whom a
9 physician attests needs assistance;

10 6. "Child-resistant" means special packaging that is:

11 a. designed or constructed to be significantly difficult
12 for children under five (5) years of age to open and
13 not difficult for normal adults to use properly as
14 defined by 16 C.F.R. 1700.15 (1995) and 16 C.F.R.
15 1700.20 (1995), and

16 b. ~~opaque so that the outermost packaging does not allow~~
17 ~~the product to be seen without opening the packaging~~
18 ~~material, and~~

19 ~~e.~~ resealable to maintain its child-resistant
20 effectiveness for multiple openings for any product
21 intended for more than a single use or containing
22 multiple servings;

1 7. "Clone" means a nonflowering plant cut from a mother plant
2 that is capable of developing into a new plant and has shown no
3 signs of flowering;

4 8. "Commissioner" means the State Commissioner of Health;

5 9. "Complete application" means a document prepared in
6 accordance with the provisions set forth in the Oklahoma Medical
7 Marijuana and Patient Protection Act, rules promulgated pursuant
8 thereto, and the forms and instructions provided by the Department,
9 including any supporting documentation required and the applicable
10 license application fee;

11 10. "Department" means the State Department of Health;

12 11. "Director" means the Executive Director of the Oklahoma
13 Medical Marijuana Authority;

14 12. "Dispense" means the selling of medical marijuana or a
15 medical marijuana product to a qualified patient or the designated
16 caregiver of the patient that is packaged in a suitable container
17 appropriately labeled for subsequent administration to or use by a
18 qualifying patient;

19 13. "Dispensary" means a medical marijuana dispensary, an
20 entity that has been licensed by the Department pursuant to the
21 Oklahoma Medical Marijuana and Patient Protection Act to purchase
22 medical marijuana or medical marijuana products from a licensed
23 medical marijuana commercial grower or licensed medical marijuana
24 processor, to prepare and package noninfused pre-rolled medical

1 marijuana, and to sell medical marijuana or medical marijuana
2 products to licensed patients and caregivers as defined in this
3 section, or sell or transfer products to another licensed
4 dispensary;

5 14. "Edible medical marijuana product" means any medical-
6 marijuana-infused product for which the intended use is oral
7 consumption including, but not limited to, any type of food, drink
8 or pill;

9 15. "Entity" means an individual, general partnership, limited
10 partnership, limited liability company, trust, estate, association,
11 corporation, cooperative or any other legal or commercial entity;

12 16. "Exit package" means an opaque bag that is provided at the
13 point of sale in which pre-packaged medical marijuana is placed;

14 17. "Flower" means the reproductive organs of the marijuana or
15 cannabis plant referred to as the bud or parts of the plant that are
16 harvested and used for consumption in a variety of medical marijuana
17 products;

18 ~~17.~~ 18. "Flowering" means the reproductive state of the
19 marijuana or cannabis plant in which there are physical signs of
20 flower or budding out of the nodes of the stem;

21 ~~18.~~ 19. "Food-based medical marijuana concentrate" means a
22 medical marijuana concentrate that was produced by extracting
23 cannabinoids from medical marijuana through the use of propylene
24

1 glycol, glycerin, butter, olive oil, coconut oil or other typical
2 food-safe cooking fats;

3 ~~19.~~ 20. "Harvest batch" means a specifically identified
4 quantity of medical marijuana that is uniform in strain, cultivated
5 utilizing the same cultivation practices, harvested at the same time
6 from the same location and cured under uniform conditions;

7 ~~20.~~ 21. "Harvested marijuana" means postflowering medical
8 marijuana not including trim, concentrate or waste;

9 ~~21.~~ 22. "Heat- or pressure-based medical marijuana concentrate"
10 means a medical marijuana concentrate that was produced by
11 extracting cannabinoids from medical marijuana through the use of
12 heat or pressure;

13 ~~22.~~ 23. "Immature plant" means a nonflowering marijuana plant
14 that has not demonstrated signs of flowering;

15 ~~23.~~ 24. "Inventory tracking system" means the required tracking
16 system that accounts for the entire life span of medical marijuana
17 and medical marijuana products, including any testing samples
18 thereof and medical marijuana waste;

19 ~~24.~~ 25. "Licensed patient" or "patient" means a person who has
20 been issued a medical marijuana patient license by the State
21 Department of Health or Oklahoma Medical Marijuana Authority;

22 ~~25.~~ 26. "Licensed premises" means the premises specified in an
23 application for a medical marijuana business license, medical
24 marijuana research facility license or medical marijuana education

1 facility license pursuant to the Oklahoma Medical Marijuana and
2 Patient Protection Act that are owned or in possession of the
3 licensee and within which the licensee is authorized to cultivate,
4 manufacture, distribute, sell, store, transport, test or research
5 medical marijuana or medical marijuana products in accordance with
6 the provisions of the Oklahoma Medical Marijuana and Patient
7 Protection Act and rules promulgated pursuant thereto;

8 ~~26.~~ 27. "Manufacture" means the production, propagation,
9 compounding or processing of a medical marijuana product, excluding
10 marijuana plants, either directly or indirectly by extraction from
11 substances of natural or synthetic origin, or independently by means
12 of chemical synthesis, or by a combination of extraction and
13 chemical synthesis;

14 ~~27.~~ 28. "Marijuana" shall have the same meaning as such term is
15 defined in Section 2-101 of this title;

16 ~~28.~~ 29. "Material change" means any change that would affect
17 the qualifications for licensure of an applicant or licensee;

18 ~~29.~~ 30. "Mature plant" means a harvestable female marijuana
19 plant that is flowering;

20 ~~30.~~ 31. "Medical marijuana business (MMB)" means a licensed
21 medical marijuana dispensary, medical marijuana processor, medical
22 marijuana commercial grower, medical marijuana laboratory, medical
23 marijuana business operator or a medical marijuana transporter;

24

1 ~~31.~~ 32. "Medical marijuana concentrate" or "concentrate" means
2 a specific subset of medical marijuana that was produced by
3 extracting cannabinoids from medical marijuana. Categories of
4 medical marijuana concentrate include water-based medical marijuana
5 concentrate, food-based medical marijuana concentrate, solvent-based
6 medical marijuana concentrate, and heat- or pressure-based medical
7 marijuana concentrate;

8 ~~32.~~ 33. "Medical marijuana commercial grower" or "commercial
9 grower" means an entity licensed to cultivate, prepare and package
10 medical marijuana or package medical marijuana as pre-rolls, and
11 transfer or contract for transfer medical marijuana and medical
12 marijuana pre-rolls to a medical marijuana dispensary, medical
13 marijuana processor, any other medical marijuana commercial grower,
14 medical marijuana research facility or medical marijuana education
15 facility. A commercial grower may sell seeds, flower or clones to
16 commercial growers pursuant to the Oklahoma Medical Marijuana and
17 Patient Protection Act;

18 ~~33.~~ 34. "Medical marijuana education facility" or "education
19 facility" means a person or entity approved pursuant to the Oklahoma
20 Medical Marijuana and Patient Protection Act to operate a facility
21 providing training and education to individuals involving the
22 cultivation, growing, harvesting, curing, preparing, packaging or
23 testing of medical marijuana, or the production, manufacture,
24 extraction, processing, packaging or creation of medical-marijuana-

1 infused products or medical marijuana products as described in the
2 Oklahoma Medical Marijuana and Patient Protection Act;

3 ~~34.~~ 35. "Medical-marijuana-infused product" means a product
4 infused with medical marijuana including, but not limited to, edible
5 products, ointments and tinctures;

6 ~~35.~~ 36. "Medical marijuana product" or "product" means a
7 product that contains cannabinoids that have been extracted from
8 plant material or the resin therefrom by physical or chemical means
9 and is intended for administration to a qualified patient including,
10 but not limited to, oils, tinctures, edibles, pills, topical forms,
11 gels, creams, vapors, patches, liquids, and forms administered by a
12 nebulizer, excluding live plant forms which are considered medical
13 marijuana;

14 ~~36.~~ 37. "Medical marijuana processor" means a person or entity
15 licensed pursuant to the Oklahoma Medical Marijuana and Patient
16 Protection Act to operate a business including the production,
17 manufacture, extraction, processing, packaging or creation of
18 concentrate, medical-marijuana-infused products or medical marijuana
19 products as described in the Oklahoma Medical Marijuana and Patient
20 Protection Act;

21 ~~37.~~ 38. "Medical marijuana research facility" or "research
22 facility" means a person or entity approved pursuant to the Oklahoma
23 Medical Marijuana and Patient Protection Act to conduct medical
24

1 marijuana research. A medical marijuana research facility is not a
2 medical marijuana business;

3 ~~38.~~ 39. "Medical marijuana testing laboratory" or "laboratory"
4 means a public or private laboratory licensed pursuant to the
5 Oklahoma Medical Marijuana and Patient Protection Act to conduct
6 testing and research on medical marijuana and medical marijuana
7 products;

8 ~~39.~~ 40. "Medical marijuana transporter" or "transporter" means
9 a person or entity that is licensed pursuant to the Oklahoma Medical
10 Marijuana and Patient Protection Act. A medical marijuana
11 transporter does not include a medical marijuana business that
12 transports its own medical marijuana, medical marijuana concentrate
13 or medical marijuana products to a property or facility adjacent to
14 or connected to the licensed premises if the property is another
15 licensed premises of the same medical marijuana business;

16 ~~40.~~ 41. "Medical marijuana waste" or "waste" means unused,
17 surplus, returned or out-of-date marijuana, plant debris of the
18 plant of the genus Cannabis including dead plants and all unused
19 plant parts and roots, except the term shall not include roots,
20 stems, stalks and fan leaves;

21 ~~41.~~ 42. "Medical use" means the acquisition, possession, use,
22 delivery, transfer or transportation of medical marijuana, medical
23 marijuana products, medical marijuana devices or paraphernalia
24

1 relating to the administration of medical marijuana to treat a
2 licensed patient;

3 ~~42.~~ 43. "Mother plant" means a marijuana plant that is grown or
4 maintained for the purpose of generating clones, and that will not
5 be used to produce plant material for sale to a medical marijuana
6 processor or medical marijuana dispensary;

7 ~~43.~~ 44. "Oklahoma physician" or "physician" means a physician
8 licensed by and in good standing with the State Board of Medical
9 Licensure and Supervision, the State Board of Osteopathic Examiners
10 or the Board of Podiatric Medical Examiners;

11 ~~44.~~ 45. "Oklahoma resident" means an individual who can provide
12 proof of residency as required by the Oklahoma Medical Marijuana and
13 Patient Protection Act;

14 ~~45.~~ 46. "Owner" means, except where the context otherwise
15 requires, a direct beneficial owner including, but not limited to,
16 all persons or entities as follows:

- 17 a. all shareholders owning an interest of a corporate
18 entity and all officers of a corporate entity,
19 b. all partners of a general partnership,
20 c. all general partners and all limited partners that own
21 an interest in a limited partnership,
22 d. all members that own an interest in a limited
23 liability company,

24

- 1 e. all beneficiaries that hold a beneficial interest in a
2 trust and all trustees of a trust,
3 f. all persons or entities that own interest in a joint
4 venture,
5 g. all persons or entities that own an interest in an
6 association,
7 h. the owners of any other type of legal entity, and
8 i. any other person holding an interest or convertible
9 note in any entity which owns, operates or manages a
10 licensed facility;

11 ~~46.~~ 47. "Package" or "packaging" means any container or wrapper
12 that may be used by a medical marijuana business to enclose or
13 contain medical marijuana;

14 ~~47.~~ 48. "Person" means a natural person, partnership,
15 association, business trust, company, corporation, estate, limited
16 liability company, trust or any other legal entity or organization,
17 or a manager, agent, owner, director, servant, officer or employee
18 thereof, except that "person" does not include any governmental
19 organization;

20 ~~48.~~ 49. "Pesticide" means any substance or mixture of
21 substances intended for preventing, destroying, repelling or
22 mitigating any pest or any substance or mixture of substances
23 intended for use as a plant regulator, defoliant or desiccant,
24 except that the term "pesticide" shall not include any article that

1 is a "new animal drug" as designated by the United States Food and
2 Drug Administration;

3 ~~49.~~ 50. "Production batch" means:

4 a. any amount of medical marijuana concentrate of the
5 same category and produced using the same extraction
6 methods, standard operating procedures and an
7 identical group of harvest batch of medical marijuana,
8 or

9 b. any amount of medical marijuana product of the same
10 exact type, produced using the same ingredients,
11 standard operating procedures and the same production
12 batch of medical marijuana concentrate;

13 ~~50.~~ 51. "Public institution" means any entity established or
14 controlled by the federal government, state government, or a local
15 government or municipality including, but not limited to,
16 institutions of higher education or related research institutions;

17 ~~51.~~ 52. "Public money" means any funds or money obtained by the
18 holder from any governmental entity including, but not limited to,
19 research grants;

20 ~~52.~~ 53. "Recommendation" means a document that is signed or
21 electronically submitted by a physician on behalf of a patient for
22 the use of medical marijuana pursuant to the Oklahoma Medical
23 Marijuana and Patient Protection Act;

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1 ~~53.~~ 54. "Registered to conduct business" means a person that
2 has provided proof that the business applicant or licensee is in
3 good standing with the Oklahoma Secretary of State;

4 ~~54.~~ 55. "Remediation" means the process by which a harvest
5 batch or production batch that fails testing undergoes a procedure
6 to remedy the harvest batch or production batch and is retested in
7 accordance with Oklahoma laws, rules and regulations;

8 ~~55.~~ 56. "Research project" means a discrete scientific endeavor
9 to answer a research question or a set of research questions related
10 to medical marijuana and is required for a medical marijuana
11 research license. A research project shall include a description of
12 a defined protocol, clearly articulated goals, defined methods and
13 outputs, and a defined start and end date. The description shall
14 demonstrate that the research project will comply with all
15 requirements in the Oklahoma Medical Marijuana and Patient
16 Protection Act and rules promulgated pursuant thereto. All research
17 and development conducted by a medical marijuana research facility
18 shall be conducted in furtherance of an approved research project;

19 ~~56.~~ 57. "Revocation" means the final decision by the Department
20 that any license issued pursuant to the Oklahoma Medical Marijuana
21 and Patient Protection Act is rescinded because the individual or
22 entity does not comply with the applicable requirements set forth in
23 the Oklahoma Medical Marijuana and Patient Protection Act or rules
24 promulgated pursuant thereto;

1 ~~57.~~ 58. "School" means a public or private elementary, middle
2 or high school used for school classes and instruction. A
3 homeschool, daycare or ~~child-care~~ child care facility shall not be
4 considered a "school" as used in the Oklahoma Medical Marijuana and
5 Patient Protection Act;

6 ~~58.~~ 59. "Shipping container" means a hard-sided container with
7 a lid or other enclosure that can be secured in place. A shipping
8 container is used solely for the transport of medical marijuana,
9 medical marijuana concentrate, or medical marijuana products between
10 medical marijuana businesses, a medical marijuana research facility,
11 or a medical marijuana education facility;

12 ~~59.~~ 60. "Solvent-based medical marijuana concentrate" means a
13 medical marijuana concentrate that was produced by extracting
14 cannabinoids from medical marijuana through the use of a solvent
15 approved by the Department;

16 ~~60.~~ 61. "State Question" means Oklahoma State Question No. 788,
17 Initiative Petition No. 412, approved by a majority vote of the
18 citizens of Oklahoma on June 26, 2018;

19 ~~61.~~ 62. "Strain" means the name given to a particular variety
20 of medical marijuana that is based on a combination of factors which
21 may include, but is not limited to, botanical lineage, appearance,
22 chemical profile and accompanying effects. An example of a "strain"
23 would be "OG Kush" or "Pineapple Express";

24

1 ~~62.~~ 63. "THC" means tetrahydrocannabinol, which is the primary
2 psychotropic cannabinoid in marijuana formed by decarboxylation of
3 naturally tetrahydrocannabinolic acid, which generally occurs by
4 exposure to heat;

5 ~~63.~~ 64. "Transporter agent" means a person who transports
6 medical marijuana or medical marijuana products as an employee of a
7 licensed medical marijuana business and holds a transporter agent
8 license specific to that business pursuant to the Oklahoma Medical
9 Marijuana and Patient Protection Act;

10 ~~64.~~ 65. "Universal symbol" means the image established by the
11 State Department of Health or Oklahoma Medical Marijuana Authority
12 and made available to licensees through its website indicating that
13 the medical marijuana or the medical marijuana product contains THC;

14 ~~65.~~ 66. "Usable marijuana" means the dried leaves, flowers,
15 oils, vapors, waxes and other portions of the marijuana plant and
16 any mixture or preparation thereof, excluding seeds, roots, stems,
17 stalks and fan leaves; and

18 ~~66.~~ 67. "Water-based medical marijuana concentrate" means a
19 concentrate that was produced by extracting cannabinoids from
20 medical marijuana through the use of only water, ice or dry ice.

21 SECTION 2. AMENDATORY 63 O.S. 2021, Section 427.18, is
22 amended to read as follows:

23 Section 427.18 A. An Oklahoma medical marijuana business shall
24 not sell, transfer or otherwise distribute medical marijuana or

1 medical marijuana product that has not been packaged and labeled in
2 accordance with this section and rules promulgated by the State
3 Commissioner of Health.

4 B. A medical marijuana dispensary shall return medical
5 marijuana and medical marijuana product that does not meet packaging
6 or labeling requirements in this section or rules promulgated
7 pursuant thereto to the entity who transferred it to the dispensary.
8 The medical marijuana dispensary shall document to whom the item was
9 returned, what was returned and the date of the return or dispose of
10 any usable marijuana that does not meet these requirements in
11 accordance with the Oklahoma Medical Marijuana and Patient
12 Protection Act.

13 C. 1. Medical marijuana packaging shall be packaged to
14 minimize its appeal to children and shall not depict images other
15 than the business name logo of the medical marijuana producer and
16 image of the product.

17 2. A medical marijuana business shall not place any content on
18 a container in a manner that reasonably appears to target
19 individuals under the age of twenty-one (21) including, but not
20 limited to, cartoon characters or similar images.

21 3. Labels on a container shall not include any false or
22 misleading statements.

23 4. No container shall be intentionally or knowingly labeled so
24 as to cause a reasonable patient confusion as to whether the medical

1 marijuana, medical marijuana concentrate or medical marijuana
2 product is a trademarked product or labeled in a manner that
3 violates any federal trademark law or regulation. The label on the
4 container shall include a warning that states the following:

5 a. "For use by licensed medical marijuana patients only",

6 and

7 b. "Keep out of reach of children".

8 5. The label on the container shall not make any claims
9 regarding health or physical benefits to the patient.

10 6. ~~All~~ The container itself may be clear in order to allow
11 licensed medical marijuana patients and licensed medical marijuana
12 caregivers the ability to view the product inside the container but
13 shall be child-resistant, as defined in Section 427.2 of this title.

14 7. At the point of sale and transfer of any medical marijuana,
15 medical marijuana concentrate ~~and,~~ or medical marijuana products to
16 a licensed medical marijuana patient or licensed medical marijuana
17 caregiver, the dispensary shall be in a child-resistant container at
18 the point of transfer to the patient or caregiver place the medical
19 marijuana, medical marijuana concentrate, or medical marijuana
20 products in an exit package, as such term is defined in Section
21 427.2 of this title.

22 D. The State Department of Health shall develop minimum
23 standards for packaging and labeling of medical marijuana, medical
24 marijuana concentrate, and medical marijuana products. Such

1 standards shall include, but not be limited to, the required
2 contents of labels to be affixed to all medical marijuana, medical
3 marijuana concentrate, and medical marijuana products prior to
4 transfer to a licensed patient or caregiver, which shall include, at
5 a minimum:

- 6 1. THC and other cannabinoid potency, and terpenoid potency;
- 7 2. A statement indicating that the product has been tested for
8 contaminants;
- 9 3. One or more product warnings to be determined by the
10 Department; and
- 11 4. Any other information the Department deems necessary.

12 SECTION 3. This act shall become effective November 1, 2022.

13 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
14 April 14, 2022 - DO PASS AS AMENDED
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