

BILL SUMMARY

1st Session of the 58th Legislature

Bill No.:	HB 2004
Version:	Committee Substitute
Request Number:	7804
Author:	Fetgatter
Date:	3/1/2021
Impact:	Currently unknown; see below

Research Analysis

The committee substitute for HB 2004 addresses many aspects of medical marijuana statute. The measure:

- Allows patient licensees to possess 12 mature marijuana plants, rather than six mature plants and six seedling plants;
- Reclassifies the possession of up to 1.5 ounces of marijuana by someone without a patient license as an offense not subject to imprisonment and punishable by a fine and court costs not to exceed \$400;
- Provides a reduced patient license application fee of \$20 for veterans with a disability rating of at least 50 percent;
- Provides that license reprints incur a fee of \$20;
- Authorizes a temporary patient license for any applicant who meets all requirements aside from residency. The license is valid for 120 days and can be renewed without a new physician recommendation unless one year has passed since the original recommendation or the original physician limited the time period of the recommendation;
- Directs the Oklahoma Medical Marijuana Authority (OMMA) to promulgate rules regarding renewal of temporary licenses;
- Removes restrictions regarding what patient records the Oklahoma State Department of Health (OSDH) cannot keep;
- Provides that the identification numbers for patient licenses can be 10 to 24 characters;
- Requires a warrant for OMMA to share records with any other state agency or political subdivision;
- Specifies cultivation requirements for caregivers;
- Requires recommending physicians to be licensed by and in good standing with the State Board of Medical Licensure, the State Board of Osteopathic Examiners or the Board of Podiatric Medical Examiners, and clarifies their rights;
- Prohibits counties, cities and other political subdivisions from assessing fees to patient or caregiver licensees for the use or cultivation of medical marijuana;
- Allows OMMA 90 days, rather than two weeks, to review dispensary, grower and processor applications;
- Increases restriction of non-resident ownership of dispensaries from 25 percent to 49 percent;
- Allows growers to sell pre-rolls to dispensaries and dispensaries to sell pre-rolls to patients;
- Requires OMMA to promulgate rules regarding sales across state lines within 30 days of it being federally legal to do so;
- Provides that processor licensees do not have to obtain a sales tax permit to apply for or renew a processor license. The processing of marijuana into a concentrated form for a patient or caregiver for a fee is considered a service and not subject to sales or excise tax;

- Requires clear and convincing evidence that the behavior of a patient licensee creates a risk of irreparable harm to a child before the patient can be denied custody, visitation or parenting time;
- Emphasizes that cities and political subdivisions must treat medical marijuana businesses the same as other businesses; provided, they may restrict dispensaries opening after September 1, 2021, from being within 1,000 feet of an existing dispensary;
- Clarifies that the required 1,000 foot distance between dispensaries and waste disposal facilities and schools shall be measured from the nearest property line of the school to the nearest property line of the dispensary or disposal facility. Existing dispensaries are grandfathered in;
- Allows veterans with a disability rating of at least 25 percent to apply to the Tax Commission for a medical marijuana excise tax waiver;
- Deletes the requirement that the 75 percent of surplus proceeds from the 7 percent tax apportioned to the General Revenue Fund be used solely for common education;
- Requires all license revocation hearings to be recorded, including those concerning patient licensees;
- Only requires a medical marijuana business to submit a certificate of compliance with their application or request to change location if located within the incorporated boundaries of a municipality. Certificates of compliance are not required for license renewal unless there is a change of use or occupancy;
- Removes the definitions *good cause* and *test batch*, amends the definitions *harvest batch*, *inventory tracking system*, *marijuana*, *material change*, *medical marijuana business*, *medical marijuana commercial grower*, *medical-marijuana-infused product*, *owner*, *production batch*, *registered to conduct business*, *school*, *strain*, and *transporter agent*, and adds the definition *medical marijuana wholesaler*;
- No longer requires verification for sources of finance for medical marijuana businesses;
- Directs OMMA to establish and collect fees for material changes requested by licensees;
- Directs OMMA to establish regulations that require medical marijuana businesses to submit certain information to OMMA to assist OMMA in preventing the diversion of medical marijuana;
- Allows OMMA to require businesses to submit samples periodically to quality assurance labs and/or when OMMA has reason to believe the products are unsafe;
- Allows OMMA to adopt rules imposing penalties for failure to allow reasonable access to premises for an inspection;
- Allows commercial growers who have been served a written order alleging violation of rules to continue growing, caring for, curing and storing product until an administrative hearing occurs;
- Reduces the disability rating required for a veteran to pay a reduced application fee from 100 percent to 25 percent;
- Gives a patient 30 days to submit a new recommendation after the original recommending physician determines the patient no longer meets licensure requirements;
- Allows patient licensees to request the immediate withdrawal of their caregiver's license;
- Modifies information required to be included with inventory tracking systems;
- Requires medical marijuana businesses to develop written standard operating procedures;
- Establishes a fee for late renewal of a business license and provides that licenses that have been expired for more than 90 days shall not be renewed;
- Creates a medical marijuana wholesaler business license, which is a transporter license not issued in conjunction with a dispensary, grower, processor, research facility or education facility license;

- Expands residency requirement exemption to include applicants who submitted complete applications before August 30, 2019, and testing laboratories licensed by the Oklahoma State Bureau of Narcotics and Drugs Control before August 20, 2019.
- Exempts transporter agent licensees from residency requirement;
- Modifies acceptable documents to serve as proof of identity;
- Prohibits the issuance of a business, research facility, education facility or waste disposal facility license to any person who was involved in the management or operations of a medical marijuana business or facility that had its license revoked, not renewed, or surrendered for certain violations;
- Prohibits delivery of medical marijuana to schools;
- Reduces the annual transporter license fee from \$100 to \$25;
- Removes residency and criminal background check requirements for a transport registry identification card;
- Allows indirect beneficial owners of certain medical marijuana businesses to be an owner of a testing laboratory;
- Modifies test batch sizes;
- Extends the deadline for laboratory accreditation from January 2020 to January 2022;
- Modifies certain requirements regarding packaging of medical marijuana products;
- Allows for the sharing of certain confidential information with the Tax Commission to ensure compliance;
- Provides for procedures regarding medical marijuana that has failed testing, been embargoed and/or been destroyed;
- Amends the definition of *medical marijuana waste*; and
- Removes the limit on number of waste disposal licenses issued by OMMA, beginning November 1, 2021.

The measure also changes several references to OSDH/Commissioner of Health to OMMA/its Executive Director, and has an emergency clause.

Prepared By: Emily McPherson

Fiscal Analysis

From OMMA:

The expansion of the discounted licensing fees for veterans with disability status will result in a reduction in licensing fees collected by the state. It is unknown how many additional applicants will qualify for this reduced price. The reduction in licensing fees for transportation agents will also decrease licensing revenue.

The ability to collect fees for license reprints, the removal of residency requirements for patient licenses, the ability to collect fines for material change requests by commercial licensees, and the ability to assess a late application fee for commercial licensees will increase licensing revenue received by the state.

The ability to assess fines without a required hearing for every fine assessment will reduce costs to the state.

The change from a stand-alone transportation license to a wholesaler license will require additional training to OMMA staff for enforcement and may require software updates in our licensing system.

Prepared By: Stacy Johnson

Other Considerations

None.

© 2021 Oklahoma House of Representatives, see Copyright Notice at www.okhouse.gov