

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 16, 2022

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB1704

By: Paxton of the Senate and Lowe (Dick) of the House

Title: Medical marijuana; clarifying penalties; increasing fine amounts; authorizing the Oklahoma Medical Marijuana Authority to revoke licenses under certain circumstances. Emergency.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:


1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

SENATE CONFEREES:



Paxton



Taylor

Dossett (J.J.)



Leewright

Rosario

Garvin

HOUSE CONFEREES:

Conference Committee on Alcohol, Tobacco, and Controlled Substances

1 STATE OF OKLAHOMA

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

3 CONFERENCE COMMITTEE SUBSTITUTE
4 FOR ENGROSSED

5 SENATE BILL NO. 1704

By: Paxton of the Senate

and

6 Lowe (Dick) of the House

7
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9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to medical marijuana; amending 63
11 O.S. 2021, Section 427.6, as last amended by Section
12 1 of Enrolled Senate Bill No. 1367 of the 2nd Session
13 of the 58th Legislature, which relates to the
14 Oklahoma Medical Marijuana and Patient Protection
15 Act; authorizing the Oklahoma Medical Marijuana
16 Authority to revoke licenses under certain
17 circumstances; amending 63 O.S. 2021, Section 427.14,
18 as last amended by Section 15 of Enrolled Senate Bill
19 No. 1543 of the 2nd Session of the 58th Oklahoma
20 Legislature, which relates to medical marijuana
21 business license; requiring licensees to submit
22 employees to acquire certain credentials prior to
23 employment; requiring employees of a medical
24 marijuana business licensee to obtain credentialing;
allowing Oklahoma Medical Marijuana Authority to
contract with third-party vendor to provide certain
services; directing Authority to determine services;
directing third-party vendor to conduct certain
functions for applicants; requiring third-party
vendor to issue certain credential; providing for
certain appeal; excluding third-party vendor from
certain liability; directing promulgation of rules;
providing for codification; and providing an
effective date.

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

2 SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.6, as
3 last amended by Section 1 of Enrolled Senate Bill No. 1367 of the
4 2nd Session of the 58th Legislature, is amended to read as follows:

5 Section 427.6. A. The Oklahoma Medical Marijuana Authority
6 shall address issues related to the medical marijuana program in
7 this state including, but not limited to, monitoring and
8 disciplinary actions as they relate to the medical marijuana
9 program.

10 B. 1. The Authority or its designee may perform on-site
11 inspections or investigations of a licensee or applicant for any
12 medical marijuana business license, research facility, education
13 facility or waste disposal facility to determine compliance with
14 applicable laws, rules and regulations or submissions made pursuant
15 to this section. The Authority may enter the licensed premises of a
16 medical marijuana business, research facility, education facility or
17 waste disposal facility licensee or applicant to assess or monitor
18 compliance or ensure qualifications for licensure.

19 2. Post-licensure inspections shall be limited to twice per
20 calendar year. However, investigations and additional inspections
21 may occur when the Authority believes an investigation or additional
22 inspection is necessary due to a possible violation of applicable
23 laws, rules or regulations. The State Commissioner of Health may
24 adopt rules imposing penalties including, but not limited to,

1 monetary fines and suspension or revocation of licensure for failure
2 to allow the Authority reasonable access to the licensed premises
3 for purposes of conducting an inspection.

4 3. The Authority may review relevant records of a licensed
5 medical marijuana business, licensed medical marijuana research
6 facility, licensed medical marijuana education facility or licensed
7 medical marijuana waste disposal facility, and may require and
8 conduct interviews with such persons or entities and persons
9 affiliated with such entities, for the purpose of determining
10 compliance with Authority requirements and applicable laws, rules
11 and regulations.

12 4. The Authority may refer complaints alleging criminal
13 activity that are made against a licensee to appropriate state or
14 local law enforcement authorities.

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

19 D. Disciplinary actions may include revocation, suspension or
20 denial of an application, license or final authorization and other
21 action deemed appropriate by the Authority.

22 E. Disciplinary actions may be imposed upon a medical marijuana
23 business licensee for:

24

- 1 1. Failure to comply with or satisfy any provision of
2 applicable laws, rules or regulations;
- 3 2. Falsification or misrepresentation of any material or
4 information submitted to the Authority or other licensees;
- 5 3. Failing to allow or impeding entry by authorized
6 representatives of the Authority;
- 7 4. Failure to adhere to any acknowledgement, verification or
8 other representation made to the Authority;
- 9 5. Failure to submit or disclose information required by
10 applicable laws, rules or regulations or otherwise requested by the
11 Authority;
- 12 6. Failure to correct any violation of this section cited as a
13 result of a review or audit of financial records or other materials;
- 14 7. Failure to comply with requested access by the Authority to
15 the licensed premises or materials;
- 16 8. Failure to pay a required monetary penalty;
- 17 9. Diversion of medical marijuana or any medical marijuana
18 product, as determined by the Authority;
- 19 10. Threatening or harming a medical marijuana patient
20 licensee, caregiver licensee, a medical practitioner or an employee
21 of the Authority; and
- 22 11. Any other basis indicating a violation of the applicable
23 laws and regulations as identified by the Authority.
- 24

1 F. Disciplinary actions against a licensee may include the
2 imposition of monetary penalties, which may be assessed by the
3 Authority. The Authority may suspend or revoke a license for
4 failure to pay any monetary penalty lawfully assessed by the
5 Authority against a licensee.

6 G. Penalties 1. In addition to any other penalties prescribed
7 by law, penalties for sales, purchases or transfers for value of
8 medical marijuana by a medical marijuana business or employees or
9 agents of the medical marijuana business to persons other than those
10 allowed by law occurring within any one-year time period may include
11 an initial fine of Five Thousand Dollars (\$5,000.00) for a first
12 violation and a fine of Fifteen Thousand Dollars (\$15,000.00) for
13 any subsequent violation.

14 2. Penalties for grossly inaccurate or fraudulent reporting
15 occurring within any two-year time period may include an initial
16 administrative fine of Five Thousand Dollars (\$5,000.00) for a first
17 violation and an administrative fine of Ten Thousand Dollars
18 (\$10,000.00) for any subsequent violation. The medical marijuana
19 business shall be subject to a revocation of any license granted
20 pursuant to the Oklahoma Medical Marijuana and Patient Protection
21 Act upon a second incident of grossly inaccurate or fraudulent
22 reporting in a ten-year period by the medical marijuana business or
23 any employee or agent thereof.

24

1 3. After investigation by the Authority, the Authority may
2 revoke the license of any person directly involved with the
3 diversion of marijuana.

4 4. If the Authority, after investigation, is able to establish,
5 by a preponderance of evidence, a pattern of diversion or negligence
6 leading to diversion, the Authority may revoke any business licenses
7 associated with the diversion and any entity with common ownership.

8 H. 1. In addition to any other penalties prescribed by law, a
9 first offense for intentional and impermissible diversion of medical
10 marijuana, medical marijuana concentrate, or medical marijuana
11 products for value by a patient or caregiver to an unauthorized
12 person shall be subject to an administrative fine of ~~not less than~~
13 Four Hundred Dollars (\$400.00). The Authority shall have the
14 authority to enforce the provisions of this subsection.

15 2. In addition to any other penalties prescribed by law, an
16 additional incident resulting in a second offense for impermissible
17 diversion of medical marijuana, medical marijuana concentrate, or
18 medical marijuana products by a patient or caregiver to an
19 unauthorized person for value shall be subject to an administrative
20 fine of ~~not less than~~ One Thousand Dollars (\$1,000.00), and shall
21 result in revocation of the license or licenses of the person.

22 3. Any person who shares less than three (3) grams of medical
23 marijuana with an unauthorized person, without the transfer being
24 for value or other consideration, shall not be subject to criminal

1 prosecution but shall be subject to an administrative fine of Four
2 Hundred Dollars (\$400.00).

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 an administrative fine of Two Thousand Five
11 Hundred Dollars (\$2,500.00). For an additional incident resulting
12 in a second or subsequent offense, the licensed medical marijuana
13 patient or caregiver, medical marijuana business or employee of a
14 medical marijuana business shall be subject to a cite and release
15 citation and, upon a finding of guilt or a plea of no contest, a
16 fine of Five Thousand Dollars (\$5,000.00) and automatic revocation
17 of the medical marijuana license.

18 J. In addition to any other remedies provided for by law, the
19 Authority, pursuant to its rules and regulations, may issue a
20 written order to any licensee the Authority has reason to believe
21 has violated Sections 420 through 426.1 of this title, the Oklahoma
22 Medical Marijuana and Patient Protection Act, the Oklahoma Medical
23 Marijuana Waste Management Act, or any rules promulgated by the
24 State Commissioner of Health and to whom the Authority has served,

1 not less than thirty (30) days previously, a written notice of
2 violation of such statutes or rules.

3 1. The written order shall state with specificity the nature of
4 the violation. The Authority may impose any disciplinary action
5 authorized under the provisions of this section including, but not
6 limited to, the assessment of monetary penalties.

7 2. Any order issued pursuant to the provisions of this section
8 shall become a final order unless, not more than thirty (30) days
9 after the order is served to the licensee, the licensee requests an
10 administrative hearing in accordance with the rules and regulations
11 of the Authority. Upon such request, the Authority shall promptly
12 initiate administrative proceedings.

13 K. Whenever the Authority finds that an emergency exists
14 requiring immediate action in order to protect the health or welfare
15 of the public, the Authority may issue an order, without providing
16 notice or hearing, stating the existence of said emergency and
17 requiring that action be taken as the Authority deems necessary to
18 meet the emergency. Such action may include, but is not limited to,
19 ordering the licensee to immediately cease and desist operations by
20 the licensee. The order shall be effective immediately upon
21 issuance. Any person to whom the order is directed shall comply
22 immediately with the provisions of the order. The Authority may
23 assess a penalty not to exceed Ten Thousand Dollars (\$10,000.00) per
24 day of noncompliance with the order. In assessing such a penalty,

1 the Authority shall consider the seriousness of the violation and
2 any efforts to comply with applicable requirements. Upon
3 application to the Authority, the licensee shall be offered a
4 hearing within ten (10) days of the issuance of the order.

5 L. All hearings held pursuant to this section shall be in
6 accordance with the Oklahoma Administrative Procedures Act.

7 SECTION 2. AMENDATORY 63 O.S. 2021, Section 427.14, as
8 last amended by Section 15 of Enrolled Senate Bill No. 1543 of the
9 2nd Session of the 58th Oklahoma Legislature, is amended to read as
10 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 annual, nonrefundable application fee for a medical
2 marijuana business license shall be Two Thousand Five Hundred
3 Dollars (\$2,500.00).

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

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

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

13 3. Applicants shall submit a complete application to the
14 Authority before the application may be accepted or 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~~ meet the following criteria:

- 1 a. twenty-five (25) years of age or older,
- 2 b. if applying as an individual, proof that the applicant
- 3 is a resident of this state pursuant to paragraph 11
- 4 of this subsection,
- 5 c. if applying as an entity, proof that seventy-five
- 6 percent (75%) of all members, managers, executive
- 7 officers, partners, board members or any other form of
- 8 business ownership are residents of this state
- 9 pursuant to paragraph 11 of this subsection,
- 10 d. if applying as an individual or entity, proof that the
- 11 individual or entity is registered to conduct business
- 12 in this state,
- 13 e. disclosure of all ownership interests pursuant to the
- 14 Oklahoma Medical Marijuana and Patient Protection Act,
- 15 and
- 16 f. proof that the medical marijuana business, medical
- 17 marijuana research facility, medical marijuana
- 18 education facility and medical marijuana waste
- 19 disposal facility applicant or licensee has not been
- 20 convicted of a nonviolent felony in the last two (2)
- 21 years, or any other felony conviction within the last
- 22 five (5) years, is not a current inmate in the custody
- 23 of the Department of Corrections, or currently
- 24 incarcerated in a jail or corrections facility;

1 8. There shall be no limit to the number of medical marijuana
2 business licenses or categories that an individual or entity can
3 apply for or receive, although each application and each category
4 shall require a separate application and application fee. A
5 commercial grower, processor and dispensary, or any combination
6 thereof, are authorized to share the same address or physical
7 location, subject to the restrictions set forth in the Oklahoma
8 Medical Marijuana and Patient Protection Act;

9 9. All applicants for a medical marijuana business license,
10 research facility license or education facility license authorized
11 by the Oklahoma Medical Marijuana and Patient Protection Act, or for
12 a renewal of such license, shall undergo a state criminal history
13 background check conducted by the Oklahoma State Bureau of
14 Investigation (OSBI) within thirty (30) days prior to the
15 application for the license including:

- 16 a. individual applicants applying on their own behalf,
- 17 b. individuals applying on behalf of an entity,
- 18 c. all principal officers of an entity, and
- 19 d. all owners of an entity as defined by the Oklahoma
20 Medical Marijuana and Patient Protection Act;

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

24

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

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

17 Applicants that were issued a medical marijuana business license
18 prior to August 30, 2019, are hereby exempt from the two-year or
19 five-year state residence requirement mentioned above;

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

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1 13. All applicants shall establish their identity through
2 submission of a color copy or digital image of one of the following
3 unexpired documents:

- 4 a. front of a state-issued driver license,
- 5 b. front of a state-issued identification card,
- 6 c. a United States passport or other photo identification
7 issued by the United States government, or
- 8 d. a tribal identification card approved for
9 identification purposes by the Department of Public
10 Safety; and

11 14. All applicants shall submit an applicant photograph.

12 F. The Authority shall review the medical marijuana business
13 application; approve, reject or deny the application; and mail the
14 approval, rejection, denial or status-update letter to the applicant
15 within 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
21 shall act as proof of their approved status. Rejection and denial
22 letters shall provide a reason for the rejection or denial.
23 Applications may only be rejected or denied based on the applicant
24 not meeting the standards set forth in the provisions of the

1 Oklahoma Medical Marijuana and Patient Protection Act and Sections
2 420 through 426.1 of this title, improper completion of the
3 application, or for a reason provided for in the Oklahoma Medical
4 Marijuana and Patient Protection Act and Sections 420 through 426.1
5 of this title. If an application is rejected for failure to provide
6 required information, the applicant shall have thirty (30) days to
7 submit the required information for reconsideration. No additional
8 application fee shall be charged for such reconsideration. Unless
9 the Authority determines otherwise, an application that has been
10 resubmitted but is still incomplete or contains errors that are not
11 clerical or typographical in nature shall be denied.

12 3. Status-update letters shall provide a reason for delay in
13 either approval, rejection or denial should a situation arise in
14 which an application was submitted properly but a delay in
15 processing the application occurred.

16 4. Approval, rejection, denial or status-update letters shall
17 be sent to the applicant in the same method the application was
18 submitted to the Authority.

19 H. A license for a medical marijuana business, medical
20 marijuana research facility, medical marijuana education facility or
21 medical marijuana waste disposal facility shall not be issued to or
22 held by:

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

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

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

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

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

13 a. file taxes, interest or penalties due related to a
14 medical marijuana business, or

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

17 6. A sheriff, deputy sheriff, police officer or prosecuting
18 officer, or an officer or employee of the Authority or municipality;

19 7. A person whose authority to be a caregiver, as defined in
20 Section 427.2 of this title, has been revoked by the Authority; or

21 8. A person who was involved in the management or operations of
22 any medical marijuana business, medical marijuana research facility,
23 medical marijuana education facility or medical marijuana waste
24 disposal facility that, after the initiation of a disciplinary

1 action, has had a medical marijuana license revoked, not renewed, or
2 surrendered during the five (5) years preceding submission of the
3 application and for the following violations:

- 4 a. unlawful sales or purchases,
- 5 b. any fraudulent acts, falsification of records or
6 misrepresentation to the Authority, medical marijuana
7 patient licensees, caregiver licensees or medical
8 marijuana business licensees,
- 9 c. any grossly inaccurate or fraudulent reporting,
- 10 d. threatening or harming any medical marijuana patient,
11 caregiver, medical practitioner or employee of the
12 Authority,
- 13 e. knowingly or intentionally refusing to permit the
14 Authority access to premises or records,
- 15 f. using a prohibited, hazardous substance for processing
16 in a residential area,
- 17 g. criminal acts relating to the operation of a medical
18 marijuana business, or
- 19 h. any violations that endanger public health and safety
20 or product safety.

21 I. In investigating the qualifications of an applicant or a
22 licensee, the Authority and municipalities may have access to
23 criminal history record information furnished by a criminal justice
24 agency subject to any restrictions imposed by such an agency.

1 J. The failure of an applicant or licensee to provide the
2 requested information by the Authority deadline may be grounds for
3 denial of the application.

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

12 L. A licensed medical marijuana business premises shall be
13 subject to and responsible for compliance with applicable provisions
14 consistent with the zoning where such business is located as
15 described in the most recent versions of the Oklahoma Uniform
16 Building Code, the International Building Code and the International
17 Fire Code, unless granted an exemption by a municipality or
18 appropriate code enforcement entity.

19 M. All medical marijuana business, medical marijuana research
20 facility, medical marijuana education facility and medical marijuana
21 waste disposal facility licensees shall pay the relevant licensure
22 fees prior to receiving licensure to operate.

23 N. A medical marijuana business, medical marijuana research
24 facility, medical marijuana education facility or medical marijuana

1 waste disposal facility that attempts to renew its license after the
2 expiration date of the license shall pay a late renewal fee in an
3 amount to be determined by the Executive Director of the Authority
4 to reinstate the license. Late renewal fees are nonrefundable. A
5 license that has been expired for more than ninety (90) days shall
6 not be renewed.

7 O. No medical marijuana business, medical marijuana research
8 facility, medical marijuana education facility or medical marijuana
9 waste disposal facility shall possess, sell or transfer medical
10 marijuana or medical marijuana products without a valid, unexpired
11 license issued by the Authority.

12 P. A medical marijuana business license holder shall require
13 all individuals employed under their license to be issued a
14 credential pursuant to the provisions of Section 4 of this act prior
15 to employment.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 427.14a of Title 63, unless
18 there is created a duplication in numbering, reads as follows:

19 A. Beginning January 1, 2024, the Oklahoma Medical Marijuana
20 Authority shall require employees of a medical marijuana business
21 licensee to apply for and receive a credential authorizing the
22 employee to work in a licensed medical marijuana business.

23

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1 B. The Authority may contract with one or more third-party
2 vendors to provide the credentialing services necessary to carry out
3 the provisions of this section.

4 C. The Authority shall determine the services to be provided by
5 such third-party vendor and shall establish costs and prices. If
6 contracted for credentialing services, a third-party vendor shall on
7 behalf of the Authority conduct the background checks and verify
8 eligibility and suitability for any employees of a medical marijuana
9 business license holder to obtain a credential.

10 D. Upon successful completion by the third-party vendor of the
11 statutorily required background checks and verification of
12 eligibility and suitability for an employee, the third-party vendor
13 shall issue a credential to the employee. The results of background
14 checks and verifications shall be provided to the Authority by the
15 third-party vendor.

16 E. If the third-party vendor determines that an employee of a
17 medical marijuana business holder does not meet the minimum
18 statutory requirements for a credential, the applicant or employee
19 shall have no recourse against the third-party vendor but may appeal
20 such adverse determination to the Authority.

21 F. The third-party vendor shall not be civilly liable to an
22 applicant, licensee, or employee of a licensee for any acts taken in
23 good-faith compliance with the provisions of Section 420 et seq. of
24 Title 63 of the Oklahoma Statutes and the Oklahoma Medical Marijuana

1 and Patient Protection Act and the rules promulgated by the Oklahoma
2 Medical Marijuana Authority.

3 G. The Executive Director of the Authority may promulgate rules
4 to implement the provisions of this section.

5 SECTION 4. This act shall become effective November 1, 2022.

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