

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1961

By: Fetgatter

4
5
6 AS INTRODUCED

7 An Act relating to marijuana; ordering a legislative
8 referendum pursuant to the Oklahoma Constitution;
9 creating the Oklahoma Adult Access to Marijuana Act;
10 defining terms; providing list of acts deemed lawful
11 for consumers; providing list of acts deemed lawful
12 for licensed medical marijuana dispensaries;
13 establishing privacy protections; providing for the
14 levy of an excise tax on sales; setting procedures
15 for remittance; providing for the collection of state
16 and local sales taxes; providing construing
17 provision; directing the Oklahoma Medical Marijuana
18 Authority to promulgate rules; providing an effective
19 date; providing a ballot title; and directing filing.

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

21 SECTION 1. Pursuant to Section 3 of Article V of the Oklahoma
22 Constitution, there is hereby ordered the following legislative
23 referendum which shall be filed with the Secretary of State and
24 addressed to the Governor of the state, who shall submit the same to
the people for their approval or rejection at the General Election,
to be held on November 8, 2022.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 441 of Title 63, unless there is
3 created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Oklahoma Adult
5 Access to Marijuana Act of 2021".

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 442 of Title 63, unless there is
8 created a duplication in numbering, reads as follows:

9 As used in this act:

10 1. "Authority" means the Oklahoma Medical Marijuana Authority,
11 or its successor in interest;

12 2. "Consumer" means a person twenty-one (21) years of age or
13 older who purchases marijuana or marijuana products for his or her
14 own personal use, but not for resale to others;

15 3. "Dispensary" means a marijuana dispensary, an entity that
16 has been licensed by the Oklahoma Medical Marijuana Authority to:

17 a. purchase marijuana or marijuana products from licensed
18 medical marijuana commercial growers or licensed
19 medical marijuana processors,

20 b. sell or transfer products to another marijuana
21 dispensary, or

22 c. sell medical marijuana or medical marijuana products
23 to licensed medical marijuana patients, licensed
24 caregivers or consumers;

1 4. "Government-issued identification" means a valid government-
2 issued driver license, government-issued photo identification card,
3 unexpired United States Passport or tribal citizenship
4 identification card;

5 5. "Marijuana" shall have the same meaning as such term is
6 defined in Section 2-101 of Title 63 of the Oklahoma Statutes and
7 shall also include delta-8 and delta-10 tetrahydrocannabinol with a
8 concentration in excess of three-tenths of one percent (0.03%) on a
9 dry weight basis;

10 6. "Marijuana accessories" means any equipment, products or
11 materials of any kind which are used, intended for use or designed
12 for ingesting, inhaling, vaporizing, converting or otherwise
13 consuming or using marijuana; and

14 7. "Marijuana product" or "product" means any product that
15 contains marijuana, including marijuana extracted from plant
16 material or the resin therefrom by physical or chemical means, and
17 is intended for use or consumption including, but not limited to,
18 oils, tinctures, edibles, pills, topical forms, gels, creams,
19 vapors, patches, liquids and forms administered by a nebulizer.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 443 of Title 63, unless there is
22 created a duplication in numbering, reads as follows:

23 The following acts are not unlawful and shall not be an offense
24 under Oklahoma law or the law of any political subdivision within

1 this state or be a basis for seizure or forfeiture of assets under
2 Oklahoma law for persons twenty-one (21) years of age or older:

3 1. Possessing, using, displaying, purchasing or transporting
4 marijuana accessories or one (1) ounce or less of marijuana;

5 2. Transfer of one (1) ounce or less of marijuana without
6 remuneration to a person who is twenty-one (21) years of age or
7 older;

8 3. Consumption of marijuana, provided that nothing in this
9 section shall permit consumption that is conducted openly, publicly
10 or in a manner that endangers others. Furthermore, all smokeable,
11 vaporized, vapable and e-cigarette marijuana products inhaled
12 through vaporization or smoked by a person are subject to the same
13 restrictions for tobacco under Section 1-1521 of Title 63 of the
14 Oklahoma Statutes commonly referred to as the "Smoking in Public
15 Places and Indoor Workplaces Act; or

16 4. Assisting another person who is twenty-one (21) years of age
17 or older in any of the acts described in paragraphs 1 through 3 of
18 this section.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 444 of Title 63, unless there is
21 created a duplication in numbering, reads as follows:

22 The following acts are not unlawful and shall not be an offense
23 under Oklahoma law or be a basis for seizure or forfeiture of assets
24 under Oklahoma law:

1 1. The sale of marijuana or marijuana products by a licensed
2 medical marijuana dispensary to a person, upon presentment of
3 government-issued identification, who is twenty-one (21) years of
4 age or older and who does not possess an Oklahoma medical marijuana
5 patient license;

6 2. The purchase of marijuana or marijuana products by a medical
7 marijuana dispensary from a person or entity that holds a valid
8 medical marijuana business license issued by the Oklahoma Medical
9 Marijuana Authority for retail sale to persons twenty-one (21) years
10 of age or older; provided that, such dispensary holds a valid
11 license to operate a medical marijuana dispensary issued by the
12 Oklahoma Medical Marijuana Authority; or

13 3. Leasing or otherwise allowing the use of property owned,
14 occupied or controlled by any person, corporation or other entity
15 for any of the activities conducted lawfully in accordance with
16 paragraphs 1 and 2 of this section.

17 SECTION 6. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 445 of Title 63, unless there is
19 created a duplication in numbering, reads as follows:

20 In order to ensure that individual privacy is protected, the
21 Oklahoma Medical Marijuana Authority shall not require a consumer to
22 provide a licensed medical marijuana dispensary with personal
23 information other than government-issued identification to determine
24 the age of the consumer. In addition, the licensed medical

1 marijuana dispensary shall not be required to acquire and record
2 personal information about consumers other than information
3 typically acquired in a financial transaction conducted at a retail
4 establishment.

5 SECTION 7. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 446 of Title 63, unless there is
7 created a duplication in numbering, reads as follows:

8 A. An excise tax of fifteen percent (15%) is hereby levied and
9 imposed upon all marijuana or marijuana products sold by a licensed
10 medical marijuana dispensary to any person twenty-one (21) years of
11 age or older who does not possess a valid medical marijuana patient
12 license or valid caregiver license issued by the Oklahoma Medical
13 Marijuana Authority.

14 B. For purposes of this section, the sale of marijuana or
15 marijuana products shall include the sale of any item, membership,
16 voucher, coupon or other redeemable product which can be, at any
17 time, exchanged, converted, used or otherwise presented to a medical
18 marijuana dispensary in order to receive marijuana or marijuana
19 products.

20 C. The excise tax shall be calculated based on the gross sales
21 price of the marijuana or marijuana products prior to any discounts
22 being applied including discounts associated with the purchase of
23 any other product.

24

1 D. The due and payable excise tax levied by this section shall
2 be remitted to the Oklahoma Tax Commission using procedures
3 prescribed by the Tax Commission. All monies collected under the
4 provisions of this act shall be transmitted monthly to the State
5 Treasurer of the State of Oklahoma to be placed to the credit of the
6 General Revenue Fund of the state, to be paid out only pursuant to
7 direct appropriations of the Legislature.

8 E. The retail sale of marijuana or marijuana products shall be
9 subject to the Oklahoma Sales Tax Code and to any municipal or
10 county sales taxes.

11 SECTION 8. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 447 of Title 63, unless there is
13 created a duplication in numbering, reads as follows:

14 A. Nothing in this act shall be construed to allow driving
15 under the influence of marijuana, driving while impaired by
16 marijuana or to supersede statutory laws related to driving under
17 the influence of marijuana or driving while impaired by marijuana.

18 B. Nothing in this act shall be construed to permit the
19 transfer of marijuana, with or without remuneration, to a person
20 under twenty-one (21) years of age or to allow a person under
21 twenty-one (21) years of age to purchase, possess, use, transport or
22 consume marijuana.

23 C. Nothing in this act shall require an employer to permit or
24 accommodate conduct otherwise allowed by this act in any workplace

1 or on the property of the employer. This act does not prohibit an
2 employer from disciplining an employee for violation of a workplace
3 drug policy or for working while under the influence of marijuana.
4 This act does not prevent an employer from refusing to hire,
5 discharging, disciplining or otherwise taking an adverse employment
6 action against a person with respect to hire, tenure, terms,
7 conditions or privileges of employment because of a violation by the
8 person of a workplace drug policy or because the person was working
9 while under the influence of marijuana.

10 D. Nothing in this act shall be construed to prohibit a person
11 from regulating the consumption, sale or display of marijuana and
12 marijuana products on property the person owns, occupies or manages.

13 E. Nothing in this act shall be construed to allow for the
14 consumption of marijuana or possession of marijuana or marijuana
15 products on the grounds of any public or private elementary school,
16 public or private secondary school or any public or private college,
17 university or technology center school.

18 F. Nothing in this act shall be construed to limit or otherwise
19 impact any privileges or rights of a licensed medical marijuana
20 patient, licensed caregiver or licensed medical marijuana business
21 as provided in Sections 420 through 426.1 of Title 63 of the
22 Oklahoma Statutes and the Oklahoma Medical Marijuana and Patient
23 Protection Act.

24

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 448 of Title 63, unless there is
3 created a duplication in numbering, reads as follows:

4 The Oklahoma Medical Marijuana Authority shall promulgate rules
5 to implement the provisions of this act.

6 SECTION 10. This act shall become effective January 1, 2023, if
7 approved by the people.

8 SECTION 11. The Ballot Title for the proposed act shall be in
9 the following form:

10 BALLOT TITLE

11 Legislative Referendum No. _____ State Question No. _____

12 THE GIST OF THE PROPOSITION IS AS FOLLOWS:

13 This measure would allow limited possession, use and purchase of
14 marijuana to persons twenty-one (21) years of age or older. A
15 licensed medical marijuana dispensary would be authorized to
16 sell marijuana or marijuana products to persons twenty-one (21)
17 years of age or older. The measure would impose an excise tax
18 of fifteen percent (15%) on marijuana sales as well as state and
19 local sales taxes. This measure would be effective January 1,
20 2023.

21 SHALL THE PROPOSAL BE APPROVED?

22 FOR THE PROPOSAL - YES _____

23 AGAINST THE PROPOSAL - NO _____

1 SECTION 12. The Chief Clerk of the House of Representatives,
2 immediately after the passage of this act, shall prepare and file
3 one copy thereof, including the Ballot Title set forth in SECTION 11
4 hereof, with the Secretary of State and one copy with the Attorney
5 General.

6
7 58-1-5933 GRS 01/20/21

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24