

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3019

By: Fetgatter

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5
6 AS INTRODUCED

7 An Act relating to medical marijuana; amending 63
8 O.S. 2021, Sections 427.2 and 427.18, which relate to
9 the Oklahoma Medical Marijuana and Patient Protection
10 Act; modifying and adding definitions; allowing for
the use of clear containers; directing dispensaries
to use exit package at point of sale and transfer;
and providing an effective date.

11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 11. "Director" means the Executive Director of the Oklahoma
10 Medical Marijuana Authority;

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

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

1 section, or sell or transfer products to another licensed
2 dispensary;

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

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

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

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

16 ~~17.~~ 18. "Flowering" means the reproductive state of the
17 marijuana or cannabis plant in which there are physical signs of
18 flower or budding out of the nodes of the stem;

19 ~~18.~~ 19. "Food-based medical marijuana concentrate" means a
20 medical marijuana concentrate that was produced by extracting
21 cannabinoids from medical marijuana through the use of propylene
22 glycol, glycerin, butter, olive oil, coconut oil or other typical
23 food-safe cooking fats;

24

1 ~~19.~~ 20. "Harvest batch" means a specifically identified
2 quantity of medical marijuana that is uniform in strain, cultivated
3 utilizing the same cultivation practices, harvested at the same time
4 from the same location and cured under uniform conditions;

5 ~~20.~~ 21. "Harvested marijuana" means postflowering medical
6 marijuana not including trim, concentrate or waste;

7 ~~21.~~ 22. "Heat- or pressure-based medical marijuana concentrate"
8 means a medical marijuana concentrate that was produced by
9 extracting cannabinoids from medical marijuana through the use of
10 heat or pressure;

11 ~~22.~~ 23. "Immature plant" means a nonflowering marijuana plant
12 that has not demonstrated signs of flowering;

13 ~~23.~~ 24. "Inventory tracking system" means the required tracking
14 system that accounts for the entire life span of medical marijuana
15 and medical marijuana products, including any testing samples
16 thereof and medical marijuana waste;

17 ~~24.~~ 25. "Licensed patient" or "patient" means a person who has
18 been issued a medical marijuana patient license by the State
19 Department of Health or Oklahoma Medical Marijuana Authority;

20 ~~25.~~ 26. "Licensed premises" means the premises specified in an
21 application for a medical marijuana business license, medical
22 marijuana research facility license or medical marijuana education
23 facility license pursuant to the Oklahoma Medical Marijuana and
24 Patient Protection Act that are owned or in possession of the

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

6 | ~~26.~~ 27. "Manufacture" means the production, propagation,
7 | compounding or processing of a medical marijuana product, excluding
8 | marijuana plants, either directly or indirectly by extraction from
9 | substances of natural or synthetic origin, or independently by means
10 | of chemical synthesis, or by a combination of extraction and
11 | chemical synthesis;

12 | ~~27.~~ 28. "Marijuana" shall have the same meaning as such term is
13 | defined in Section 2-101 of this title;

14 | ~~28.~~ 29. "Material change" means any change that would affect
15 | the qualifications for licensure of an applicant or licensee;

16 | ~~29.~~ 30. "Mature plant" means a harvestable female marijuana
17 | plant that is flowering;

18 | ~~30.~~ 31. "Medical marijuana business (MMB)" means a licensed
19 | medical marijuana dispensary, medical marijuana processor, medical
20 | marijuana commercial grower, medical marijuana laboratory, medical
21 | marijuana business operator or a medical marijuana transporter;

22 | ~~31.~~ 32. "Medical marijuana concentrate" or "concentrate" means
23 | a specific subset of medical marijuana that was produced by
24 | extracting cannabinoids from medical marijuana. Categories of

1 medical marijuana concentrate include water-based medical marijuana
2 concentrate, food-based medical marijuana concentrate, solvent-based
3 medical marijuana concentrate, and heat- or pressure-based medical
4 marijuana concentrate;

5 ~~32.~~ 33. "Medical marijuana commercial grower" or "commercial
6 grower" means an entity licensed to cultivate, prepare and package
7 medical marijuana or package medical marijuana as pre-rolls, and
8 transfer or contract for transfer medical marijuana and medical
9 marijuana pre-rolls to a medical marijuana dispensary, medical
10 marijuana processor, any other medical marijuana commercial grower,
11 medical marijuana research facility or medical marijuana education
12 facility. A commercial grower may sell seeds, flower or clones to
13 commercial growers pursuant to the Oklahoma Medical Marijuana and
14 Patient Protection Act;

15 ~~33.~~ 34. "Medical marijuana education facility" or "education
16 facility" means a person or entity approved pursuant to the Oklahoma
17 Medical Marijuana and Patient Protection Act to operate a facility
18 providing training and education to individuals involving the
19 cultivation, growing, harvesting, curing, preparing, packaging or
20 testing of medical marijuana, or the production, manufacture,
21 extraction, processing, packaging or creation of medical-marijuana-
22 infused products or medical marijuana products as described in the
23 Oklahoma Medical Marijuana and Patient Protection Act;

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1 ~~34.~~ 35. "Medical-marijuana-infused product" means a product
2 infused with medical marijuana including, but not limited to, edible
3 products, ointments and tinctures;

4 ~~35.~~ 36. "Medical marijuana product" or "product" means a
5 product that contains cannabinoids that have been extracted from
6 plant material or the resin therefrom by physical or chemical means
7 and is intended for administration to a qualified patient including,
8 but not limited to, oils, tinctures, edibles, pills, topical forms,
9 gels, creams, vapors, patches, liquids, and forms administered by a
10 nebulizer, excluding live plant forms which are considered medical
11 marijuana;

12 ~~36.~~ 37. "Medical marijuana processor" means a person or entity
13 licensed pursuant to the Oklahoma Medical Marijuana and Patient
14 Protection Act to operate a business including the production,
15 manufacture, extraction, processing, packaging or creation of
16 concentrate, medical-marijuana-infused products or medical marijuana
17 products as described in the Oklahoma Medical Marijuana and Patient
18 Protection Act;

19 ~~37.~~ 38. "Medical marijuana research facility" or "research
20 facility" means a person or entity approved pursuant to the Oklahoma
21 Medical Marijuana and Patient Protection Act to conduct medical
22 marijuana research. A medical marijuana research facility is not a
23 medical marijuana business;

24

1 ~~38.~~ 39. "Medical marijuana testing laboratory" or "laboratory"
2 means a public or private laboratory licensed pursuant to the
3 Oklahoma Medical Marijuana and Patient Protection Act to conduct
4 testing and research on medical marijuana and medical marijuana
5 products;

6 ~~39.~~ 40. "Medical marijuana transporter" or "transporter" means
7 a person or entity that is licensed pursuant to the Oklahoma Medical
8 Marijuana and Patient Protection Act. A medical marijuana
9 transporter does not include a medical marijuana business that
10 transports its own medical marijuana, medical marijuana concentrate
11 or medical marijuana products to a property or facility adjacent to
12 or connected to the licensed premises if the property is another
13 licensed premises of the same medical marijuana business;

14 ~~40.~~ 41. "Medical marijuana waste" or "waste" means unused,
15 surplus, returned or out-of-date marijuana, plant debris of the
16 plant of the genus Cannabis including dead plants and all unused
17 plant parts and roots, except the term shall not include roots,
18 stems, stalks and fan leaves;

19 ~~41.~~ 42. "Medical use" means the acquisition, possession, use,
20 delivery, transfer or transportation of medical marijuana, medical
21 marijuana products, medical marijuana devices or paraphernalia
22 relating to the administration of medical marijuana to treat a
23 licensed patient;

1 ~~42.~~ 43. "Mother plant" means a marijuana plant that is grown or
2 maintained for the purpose of generating clones, and that will not
3 be used to produce plant material for sale to a medical marijuana
4 processor or medical marijuana dispensary;

5 ~~43.~~ 44. "Oklahoma physician" or "physician" means a physician
6 licensed by and in good standing with the State Board of Medical
7 Licensure and Supervision, the State Board of Osteopathic Examiners
8 or the Board of Podiatric Medical Examiners;

9 ~~44.~~ 45. "Oklahoma resident" means an individual who can provide
10 proof of residency as required by the Oklahoma Medical Marijuana and
11 Patient Protection Act;

12 ~~45.~~ 46. "Owner" means, except where the context otherwise
13 requires, a direct beneficial owner including, but not limited to,
14 all persons or entities as follows:

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

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

9 ~~46.~~ 47. "Package" or "packaging" means any container or wrapper
10 that may be used by a medical marijuana business to enclose or
11 contain medical marijuana;

12 ~~47.~~ 48. "Person" means a natural person, partnership,
13 association, business trust, company, corporation, estate, limited
14 liability company, trust or any other legal entity or organization,
15 or a manager, agent, owner, director, servant, officer or employee
16 thereof, except that "person" does not include any governmental
17 organization;

18 ~~48.~~ 49. "Pesticide" means any substance or mixture of
19 substances intended for preventing, destroying, repelling or
20 mitigating any pest or any substance or mixture of substances
21 intended for use as a plant regulator, defoliant or desiccant,
22 except that the term "pesticide" shall not include any article that
23 is a "new animal drug" as designated by the United States Food and
24 Drug Administration;

1 ~~49.~~ 50. "Production batch" means:

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

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

11 ~~50.~~ 51. "Public institution" means any entity established or
12 controlled by the federal government, state government, or a local
13 government or municipality including, but not limited to,
14 institutions of higher education or related research institutions;

15 ~~51.~~ 52. "Public money" means any funds or money obtained by the
16 holder from any governmental entity including, but not limited to,
17 research grants;

18 ~~52.~~ 53. "Recommendation" means a document that is signed or
19 electronically submitted by a physician on behalf of a patient for
20 the use of medical marijuana pursuant to the Oklahoma Medical
21 Marijuana and Patient Protection Act;

22 ~~53.~~ 54. "Registered to conduct business" means a person that
23 has provided proof that the business applicant or licensee is in
24 good standing with the Oklahoma Secretary of State;

1 ~~54.~~ 55. "Remediation" means the process by which a harvest
2 batch or production batch that fails testing undergoes a procedure
3 to remedy the harvest batch or production batch and is retested in
4 accordance with Oklahoma laws, rules and regulations;

5 ~~55.~~ 56. "Research project" means a discrete scientific endeavor
6 to answer a research question or a set of research questions related
7 to medical marijuana and is required for a medical marijuana
8 research license. A research project shall include a description of
9 a defined protocol, clearly articulated goals, defined methods and
10 outputs, and a defined start and end date. The description shall
11 demonstrate that the research project will comply with all
12 requirements in the Oklahoma Medical Marijuana and Patient
13 Protection Act and rules promulgated pursuant thereto. All research
14 and development conducted by a medical marijuana research facility
15 shall be conducted in furtherance of an approved research project;

16 ~~56.~~ 57. "Revocation" means the final decision by the Department
17 that any license issued pursuant to the Oklahoma Medical Marijuana
18 and Patient Protection Act is rescinded because the individual or
19 entity does not comply with the applicable requirements set forth in
20 the Oklahoma Medical Marijuana and Patient Protection Act or rules
21 promulgated pursuant thereto;

22 ~~57.~~ 58. "School" means a public or private elementary, middle
23 or high school used for school classes and instruction. A
24 homeschool, daycare or ~~child-care~~ child care facility shall not be

1 considered a "school" as used in the Oklahoma Medical Marijuana and
2 Patient Protection Act;

3 ~~58.~~ 59. "Shipping container" means a hard-sided container with
4 a lid or other enclosure that can be secured in place. A shipping
5 container is used solely for the transport of medical marijuana,
6 medical marijuana concentrate, or medical marijuana products between
7 medical marijuana businesses, a medical marijuana research facility,
8 or a medical marijuana education facility;

9 ~~59.~~ 60. "Solvent-based medical marijuana concentrate" means a
10 medical marijuana concentrate that was produced by extracting
11 cannabinoids from medical marijuana through the use of a solvent
12 approved by the Department;

13 ~~60.~~ 61. "State Question" means Oklahoma State Question No. 788,
14 Initiative Petition No. 412, approved by a majority vote of the
15 citizens of Oklahoma on June 26, 2018;

16 ~~61.~~ 62. "Strain" means the name given to a particular variety
17 of medical marijuana that is based on a combination of factors which
18 may include, but is not limited to, botanical lineage, appearance,
19 chemical profile and accompanying effects. An example of a "strain"
20 would be "OG Kush" or "Pineapple Express";

21 ~~62.~~ 63. "THC" means tetrahydrocannabinol, which is the primary
22 psychotropic cannabinoid in marijuana formed by decarboxylation of
23 naturally tetrahydrocannabinolic acid, which generally occurs by
24 exposure to heat;

1 ~~63.~~ 64. "Transporter agent" means a person who transports
2 medical marijuana or medical marijuana products as an employee of a
3 licensed medical marijuana business and holds a transporter agent
4 license specific to that business pursuant to the Oklahoma Medical
5 Marijuana and Patient Protection Act;

6 ~~64.~~ 65. "Universal symbol" means the image established by the
7 State Department of Health or Oklahoma Medical Marijuana Authority
8 and made available to licensees through its website indicating that
9 the medical marijuana or the medical marijuana product contains THC;

10 ~~65.~~ 66. "Usable marijuana" means the dried leaves, flowers,
11 oils, vapors, waxes and other portions of the marijuana plant and
12 any mixture or preparation thereof, excluding seeds, roots, stems,
13 stalks and fan leaves; and

14 ~~66.~~ 67. "Water-based medical marijuana concentrate" means a
15 concentrate that was produced by extracting cannabinoids from
16 medical marijuana through the use of only water, ice or dry ice.

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

19 Section 427.18 A. An Oklahoma medical marijuana business shall
20 not sell, transfer or otherwise distribute medical marijuana or
21 medical marijuana product that has not been packaged and labeled in
22 accordance with this section and rules promulgated by the State
23 Commissioner of Health.

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

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

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

18 3. Labels on a container shall not include any false or
19 misleading statements.

20 4. No container shall be intentionally or knowingly labeled so
21 as to cause a reasonable patient confusion as to whether the medical
22 marijuana, medical marijuana concentrate or medical marijuana
23 product is a trademarked product or labeled in a manner that
24 violates any federal trademark law or regulation.

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

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

7 7. At the point of sale and transfer of any medical marijuana,
8 medical marijuana concentrate and, or medical marijuana products to
9 a licensed medical marijuana patient or licensed medical marijuana
10 caregiver, the dispensary shall be in a child-resistant container at
11 the point of transfer to the patient or caregiver place the medical
12 marijuana, medical marijuana concentrate, or medical marijuana
13 products in an exit package, as such term is defined in Section
14 427.2 of this title.

15 D. The State Department of Health shall develop minimum
16 standards for packaging and labeling of medical marijuana, medical
17 marijuana concentrate, and medical marijuana products. Such
18 standards shall include, but not be limited to, the required
19 contents of labels to be affixed to all medical marijuana, medical
20 marijuana concentrate, and medical marijuana products prior to
21 transfer to a licensed patient or caregiver, which shall include, at
22 a minimum:

23 1. THC and other cannabinoid potency, and terpenoid potency;
24

- 1 2. A statement indicating that the product has been tested for
2 contaminants;
- 3 3. One or more product warnings to be determined by the
4 Department; and
- 5 4. Any other information the Department deems necessary.

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

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8 58-2-8515 GRS 12/27/21

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