HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1635 By: Coleman of the Senate

and

Marti of the House

COMMITTEE SUBSTITUTE

An Act relating to medical marijuana; amending 63 O.S. 2021, Section 422, as last amended by Section 2, Chapter 322, O.S.L. 2023 (63 O.S. Supp. 2023, Section 422), which relates to commercial grower licensing; clarifying product testing requirements; amending 63 O.S. 2021, Section 426.1, as amended by Section 6, Chapter 251, O.S.L. 2022 (63 O.S. Supp. 2023, Section 426.1), which relates to licensure revocation; providing for the submission of certificates of occupancy from political subdivisions or State Fire Marshal; directing the State Fire Marshal to certify compliance; requiring an affidavit for license renewal or for change of premises; permitting municipalities to implement inspection program; providing for the promulgation of rules for submitting affidavits; authorizing the Oklahoma Medical Marijuana Authority to suspend operations for noncompliance; prohibiting state agencies from denying licensure or registration under certain circumstances; amending 63 O.S. 2021, Sections 427.2, as amended by Section 1, Chapter 317, O.S.L. 2022 and 427.17, as last amended by Section 9, Chapter 322, O.S.L. 2023 (63 O.S. Supp. 2023, Sections 427.2 and 427.17), which relate to the Oklahoma Medical Marijuana and Patient Protection Act; adding and modifying certain definitions; clarifying testing laboratory requirements for testing samples from

certain batches; directing testing laboratories to test final products; clarifying requirements for separating final harvest batches and edible products; updating certain defined term; deleting certain limitation when transferring medical marijuana that has failed testing; deleting restriction for returning remediated and decontaminated medical marijuana; prohibiting licensed commercial growers and processors from transferring product until certain conditions met; requiring completion of certain testing prior to transferring final product; and declaring an emergency.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 422, as last amended by Section 2, Chapter 322, O.S.L. 2023 (63 O.S. Supp. 2023, Section 422), is amended to read as follows:

Section 422. A. The Oklahoma Medical Marijuana Authority shall make available on its website in an easy-to-find location an application for a medical marijuana commercial grower license. The application fee shall be paid by the applicant in the amounts provided for in Section 427.14 of this title. A method of payment for the application fee shall be provided on the website of the Authority. The Authority shall have ninety (90) business days to review the application; approve, reject, or deny the application; and send the approval, rejection, or denial letter stating the reasons for the rejection or denial to the applicant in the same method the application was submitted to the Authority.

B. The Authority shall approve all applications which meet the following criteria:

1. The applicant must be twenty-five (25) years of age or older;

2. The applicant, if applying as an individual, must show residency in this state;

3. All applying entities must show that all members, managers, and board members are Oklahoma residents;

4. An applying entity may show ownership of non-Oklahoma residents, but that percentage ownership may not exceed twenty-five percent (25%);

5. All applying individuals or entities must be registered to conduct business in this state; and

6. All applicants must disclose all ownership interests in the commercial grower operation.

Applicants with a nonviolent felony conviction in the last two (2) years, any other felony conviction in the last five (5) years, inmates in the custody of the Department of Corrections or any person currently incarcerated shall not qualify for a commercial grower license.

C. A licensed medical marijuana commercial grower may sell marijuana to a licensed medical marijuana dispensary or a licensed medical marijuana processor. Further, sales by a licensed medical marijuana commercial grower shall be considered wholesale sales and

shall not be subject to taxation. Under no circumstances may a licensed medical marijuana commercial grower sell marijuana directly to a licensed medical marijuana patient or licensed medical marijuana caregiver. A licensed medical marijuana commercial grower may only sell at the wholesale level to a licensed medical marijuana dispensary, a licensed medical marijuana commercial grower or a licensed medical marijuana processor. If the federal government lifts restrictions on buying and selling marijuana between states, then a licensed medical marijuana commercial grower would be allowed to sell and buy marijuana wholesale from, or to, an out-of-state wholesale provider. A licensed medical marijuana commercial grower shall be required to complete a monthly yield and sales report to the Authority. This report shall be due on the fifteenth of each month and provide reporting on the previous month. This report shall detail the amount of marijuana harvested in pounds, the amount of drying or dried marijuana on hand, the amount of marijuana sold to licensed processors in pounds, the amount of waste in pounds, and the amount of marijuana sold to licensed medical marijuana dispensaries in pounds. Additionally, this report shall show total wholesale sales in dollars. The Authority shall have oversight and auditing responsibilities to ensure that all marijuana being grown by licensed medical marijuana commercial growers is accounted for.

D. There shall be no limits on how much marijuana a licensed medical marijuana commercial grower can grow.

E. Beginning on November 1, 2021, licensed medical marijuana commercial growers shall be authorized to package and sell pre-rolled marijuana to licensed medical marijuana dispensaries. The products described in this subsection shall contain only the ground parts of the marijuana plant and shall not include marijuana concentrates or derivatives. The total net weight of each pre-roll packaged and sold by licensed medical marijuana commercial growers shall not exceed one (1) gram. These final products must be tested, packaged and labeled in accordance with Oklahoma law and rules promulgated by the Authority.

SECTION 2. AMENDATORY 63 O.S. 2021, Section 426.1, as amended by Section 6, Chapter 251, O.S.L. 2022 (63 O.S. Supp. 2023, Section 426.1), is amended to read as follows:

Section 426.1. A. All licensure revocation hearings conducted pursuant to marijuana licenses established in the Oklahoma Statutes shall be recorded. A party may request a copy of the recording of the proceedings. Copies shall be provided to local law enforcement if the revocation was based on alleged criminal activity.

B. The Oklahoma Medical Marijuana Authority shall assist any law enforcement officer in the performance of his or her duties upon such request by the law enforcement officer or the request of other local officials having jurisdiction. Except for license information concerning licensed patients, as defined in Section 427.2 of this

title, the Authority shall share information with law enforcement agencies upon request without a subpoena or search warrant.

C. The Authority shall make available all information on whether or not a medical marijuana patient or caregiver license is valid to law enforcement electronically through an online verification system.

D. The Authority shall make available to state agencies and political subdivisions a list of marijuana-licensed premises, medical marijuana businesses or any other premises where marijuana or its by-products are licensed to be cultivated, grown, processed, stored or manufactured to aid state agencies and county and municipal governments in identifying locations within their jurisdiction and ensuring compliance with applicable laws, rules and regulations.

E. Any marijuana-licensed premises, medical marijuana business or any other premises where marijuana or its by-products are licensed to be cultivated, grown, processed, stored or manufactured shall submit with its application or request to change location, after notifying the political subdivision of its intent, a certificate of ~~compliance~~ occupancy from the political subdivision or State Fire Marshal where the facility of the applicant or licensee is to be located certifying compliance with zoning classifications, applicable municipal ordinances and all applicable safety, electrical, fire, plumbing, waste, construction and building

specification codes. If the political subdivision does not have an authority having a jurisdiction agreement on file with the State Fire Marshal's office, the State Fire Marshal shall certify compliance with all applicable safety, electrical, fire, plumbing, waste, construction, and building specification codes.

Once a certificate of ~~compliance~~ occupancy has been submitted to the Oklahoma Medical Marijuana Authority showing full compliance as outlined in this subsection, ~~no additional certificate of compliance shall be required~~ the licensee shall only need to submit an affidavit for license renewal ~~unless~~ stating the premises continues to comply with zoning classifications, applicable municipal ordinances, and all applicable safety, electrical, fire, plumbing, waste, construction, and building specification codes. An additional certificate of occupancy along with an affidavit shall be submitted if a change of use or occupancy occurs, or there is any change concerning the facility or location that would, by law, require additional inspection, licensure or permitting by the state or municipality. Municipalities or the State Fire Marshal may implement an inspection program to verify compliance with this subsection. The Authority shall promulgate the rules necessary for the affidavit provided in this subsection. If an application for renewal is submitted in violation of the provisions of this subsection or information provided on the affidavit is inaccurate or untrue, the Authority shall suspend operations of the licensee's

premises until compliance is reestablished. Any marijuana licensed premises, medical marijuana business, or any other premises where medical marijuana or its byproducts are licensed to be cultivated, grown, processed, stored, or manufactured that have been issued a certificate of occupancy by any political subdivision prior to the effective date of this act shall not be denied licensure or registration by a state agency for failing to provide a certificate of occupancy issued by either the State Fire Marshal or a political subdivision who has an authority having jurisdiction on file with the State Fire Marshal until after July 1, 2025.

SECTION 3. AMENDATORY 63 O.S. 2021, Section 427.2, as amended by Section 1, Chapter 317, O.S.L. 2022 (63 O.S. Supp. 2023, Section 427.2), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. "Dispensary" means a medical marijuana dispensary, an entity that has been licensed by the Department pursuant to the Oklahoma Medical Marijuana and Patient Protection Act to purchase medical marijuana or medical marijuana products from a licensed medical marijuana commercial grower or medical marijuana processor, sell medical marijuana or medical marijuana products to patients and caregivers as defined under the Oklahoma Medical Marijuana and Patient Protection Act, or sell or transfer products to another dispensary;

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

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

16. "Final harvest batch" means a specifically identified quantity of medical marijuana that is uniform in strain, cultivated utilizing the same cultivation practices, harvested at the same time from the same location, and cured under uniform conditions completed and ready for consumption prior to transfer to a licensed medical marijuana dispensary;

17. "Final product" means the finished product that is available for transport to licensed medical marijuana dispensaries and ready for consumption by licensed medical marijuana patients;

18. "Final production batch" means:

a. any amount of medical marijuana finished product of the same category and produced using the same extraction methods, standard operating procedures, meeting all applicable law, rules, and regulations required by the Oklahoma Medical Marijuana and Patient Protection Act prior to transfer to a licensed medical

marijuana dispensary, licensed medical marijuana patient, or licensed medical marijuana caregiver, or

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

19. "Flower" means the reproductive organs of the marijuana or cannabis plant referred to as the bud or parts of the plant that are harvested and used to consume in a variety of medical marijuana products;

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

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

~~19.~~ 22. "Good cause" for purposes of an initial, renewal or reinstatement license application, or for purposes of discipline of a licensee, means:

a. the licensee or applicant has violated, does not meet, or has failed to comply with any of the terms,

conditions or provisions of the act, any rules promulgated pursuant thereto, or any supplemental relevant state or local law, rule or regulation,

b. the licensee or applicant has failed to comply with any special terms or conditions that were placed upon the license pursuant to an order of the State Department of Health, Oklahoma Medical Marijuana Authority or the municipality, or

c. the licensed premises of a medical marijuana business or applicant have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate vicinity in which the establishment is located;

~~20.~~ 23. "Harvest batch" means a specifically identified quantity of medical marijuana that is uniform in strain, cultivated utilizing the same cultivation practices, harvested at the same time from the same location and cured under uniform conditions;

~~21.~~ 24. "Harvested marijuana" means post-flowering medical marijuana not including trim, concentrate or waste;

~~22.~~ 25. "Heat- or pressure-based medical marijuana concentrate" means a medical marijuana concentrate that was produced by extracting cannabinoids from medical marijuana through the use of heat or pressure;

~~23.~~ 26. "Immature plant" means a nonflowering marijuana plant that has not demonstrated signs of flowering;

~~24.~~ 27. "Inventory tracking system" means the required tracking system that accounts for medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana product is sold to a patient at a medical marijuana dispensary, transferred to a medical marijuana research facility, destroyed by a medical marijuana business or used in a research project by a medical marijuana research facility;

~~25.~~ 28. "Licensed patient" or "patient" means a person who has been issued a medical marijuana patient license by the State Department of Health or Oklahoma Medical Marijuana Authority;

~~26.~~ 29. "Licensed premises" means the premises specified in an application for a medical marijuana business license, medical marijuana research facility license or medical marijuana education facility license pursuant to the Oklahoma Medical Marijuana and Patient Protection Act that are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, sell, store, transport, test or research medical marijuana or medical marijuana products in accordance with the provisions of the Oklahoma Medical Marijuana and Patient Protection Act and rules promulgated pursuant thereto;

~~27.~~ 30. "Manufacture" means the production, propagation, compounding or processing of a medical marijuana product, excluding

marijuana plants, either directly or indirectly by extraction from substances of natural or synthetic origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis;

~~28.~~ 31. "Marijuana" shall have the same meaning as such term is defined in Section 2-101 of this title and shall not include any plant or material containing delta-8 or delta-10 tetrahydrocannabinol which is grown, processed or sold pursuant to the provisions of the Oklahoma Industrial Hemp Program;

~~29.~~ 32. "Material change" means any change that would require a substantive revision to the standard operating procedures of a licensee for the cultivation or production of medical marijuana, medical marijuana concentrate or medical marijuana products;

~~30.~~ 33. "Mature plant" means a harvestable female marijuana plant that is flowering;

~~31.~~ 34. "Medical marijuana business (MMB)" means a licensed medical marijuana dispensary, medical marijuana processor, medical marijuana commercial grower, medical marijuana laboratory, medical marijuana business operator or a medical marijuana transporter;

~~32.~~ 35. "Medical marijuana concentrate" or "concentrate" means a specific subset of medical marijuana that was produced by extracting cannabinoids from medical marijuana. Categories of medical marijuana concentrate include water-based medical marijuana concentrate, food-based medical marijuana concentrate, solvent-based

medical marijuana concentrate, and heat- or pressure-based medical marijuana concentrate;

~~33.~~ 36. "Medical marijuana commercial grower" or "commercial grower" means an entity licensed to cultivate, prepare and package medical marijuana and transfer or contract for transfer medical marijuana to a medical marijuana dispensary, medical marijuana processor, any other medical marijuana commercial grower, medical marijuana research facility, medical marijuana education facility and pesticide manufacturers. A commercial grower may sell seeds, flower or clones to commercial growers pursuant to the Oklahoma Medical Marijuana and Patient Protection Act;

~~34.~~ 37. "Medical marijuana education facility" or "education facility" means a person or entity approved pursuant to the Oklahoma Medical Marijuana and Patient Protection Act to operate a facility providing training and education to individuals involving the cultivation, growing, harvesting, curing, preparing, packaging or testing of medical marijuana, or the production, manufacture, extraction, processing, packaging or creation of medical-marijuana-infused products or medical marijuana products as described in the Oklahoma Medical Marijuana and Patient Protection Act;

~~35.~~ 38. "Medical-marijuana-infused product" means a product infused with medical marijuana including, but not limited to, edible products, ointments and tinctures;

~~36.~~ 39. "Medical marijuana product" or "product" means a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a qualified patient including, but not limited to, oils, tinctures, edibles, pills, topical forms, gels, creams, vapors, patches, liquids and forms administered by a nebulizer, excluding live plant forms which are considered medical marijuana;

~~37.~~ 40. "Medical marijuana processor" means a person or entity licensed pursuant to the Oklahoma Medical Marijuana and Patient Protection Act to operate a business including the production, manufacture, extraction, processing, packaging or creation of concentrate, medical-marijuana-infused products or medical marijuana products as described in the Oklahoma Medical Marijuana and Patient Protection Act;

~~38.~~ 41. "Medical marijuana research facility" or "research facility" means a person or entity approved pursuant to the Oklahoma Medical Marijuana and Patient Protection Act to conduct medical marijuana research. A medical marijuana research facility is not a medical marijuana business;

~~39.~~ 42. "Medical marijuana testing laboratory" or "laboratory" means a public or private laboratory licensed pursuant to the Oklahoma Medical Marijuana and Patient Protection Act, to conduct

testing and research on medical marijuana and medical marijuana products;

~~40.~~ 43. "Medical marijuana transporter" or "transporter" means a person or entity that is licensed pursuant to the Oklahoma Medical Marijuana and Patient Protection Act. A medical marijuana transporter does not include a medical marijuana business that transports its own medical marijuana, medical marijuana concentrate or medical marijuana products to a property or facility adjacent to or connected to the licensed premises if the property is another licensed premises of the same medical marijuana business;

~~41.~~ 44. "Medical marijuana waste" or "waste" means unused, surplus, returned or out-of-date marijuana, plant debris of the plant of the genus Cannabis including dead plants and all unused plant parts and roots, except the term shall not include roots, stems, stalks and fan leaves;

~~42.~~ 45. "Medical use" means the acquisition, possession, use, delivery, transfer or transportation of medical marijuana, medical marijuana products, medical marijuana devices or paraphernalia relating to the administration of medical marijuana to treat a licensed patient;

~~43.~~ 46. "Mother plant" means a marijuana plant that is grown or maintained for the purpose of generating clones, and that will not be used to produce plant material for sale to a medical marijuana processor or medical marijuana dispensary;

~~44.~~ 47. "Oklahoma physician" or "physician" means a physician licensed by and in good standing with the State Board of Medical Licensure and Supervision, the State Board of Osteopathic Examiners or the Board of Podiatric Medical Examiners;

~~45.~~ 48. "Oklahoma resident" means an individual who can provide proof of residency as required by the Oklahoma Medical Marijuana and Patient Protection Act;

~~46.~~ 49. "Owner" means, except where the context otherwise requires, a direct beneficial owner including, but not limited to, all persons or entities as follows:

a. all shareholders owning an interest of a corporate entity and all officers of a corporate entity,

b. all partners of a general partnership,

c. all general partners and all limited partners that own an interest in a limited partnership,

d. all members that own an interest in a limited liability company,

e. all beneficiaries that hold a beneficial interest in a trust and all trustees of a trust,

f. all persons or entities that own interest in a joint venture,

g. all persons or entities that own an interest in an association,

h. the owners of any other type of legal entity, and

i. any other person holding an interest or convertible note in any entity which owns, operates or manages a licensed facility;

~~47.~~ 50. "Package" or "packaging" means any container or wrapper that may be used by a medical marijuana business to enclose or contain medical marijuana;

~~48.~~ 51. "Person" means a natural person, partnership, association, business trust, company, corporation, estate, limited liability company, trust or any other legal entity or organization, or a manager, agent, owner, director, servant, officer or employee thereof, except that person does not include any governmental organization;

~~49.~~ 52. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant, except that the term pesticide shall not include any article that is a "new animal drug" as designated by the United States Food and Drug Administration;

~~50.~~ 53. "Production batch" means:

a. any amount of medical marijuana concentrate of the same category and produced using the same extraction methods, standard operating procedures and an

identical group of harvest batch of medical marijuana, or

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

~~51.~~ 54. "Public institution" means any entity established or controlled by the federal government, state government, or a local government or municipality including, but not limited to, institutions of higher education or related research institutions;

~~52.~~ 55. "Public money" means any funds or money obtained by the holder from any governmental entity including, but not limited to, research grants;

~~53.~~ 56. "Recommendation" means a document that is signed or electronically submitted by a physician on behalf of a patient for the use of medical marijuana pursuant to the Oklahoma Medical Marijuana and Patient Protection Act;

~~54.~~ 57. "Registered to conduct business" means a person that has provided proof that the business applicant is in good standing with the Secretary of State and Oklahoma Tax Commission;

~~55.~~ 58. "Remediation" means the process by which the medical marijuana flower or trim, which has failed ~~microbial~~ testing, is processed into solvent-based medical marijuana concentrate and

~~retested~~ the final product is tested as required by the Oklahoma Medical Marijuana and Patient Protection Act;

~~56.~~ 59. "Research project" means a discrete scientific endeavor to answer a research question or a set of research questions related to medical marijuana and is required for a medical marijuana research license. A research project shall include a description of a defined protocol, clearly articulated goals, defined methods and outputs, and a defined start and end date. The description shall demonstrate that the research project will comply with all requirements in the Oklahoma Medical Marijuana and Patient Protection Act and rules promulgated pursuant thereto. All research and development conducted by a medical marijuana research facility shall be conducted in furtherance of an approved research project;

~~57.~~ 60. "Revocation" means the final decision by the Department that any license issued pursuant to the Oklahoma Medical Marijuana and Patient Protection Act is rescinded because the individual or entity does not comply with the applicable requirements set forth in the Oklahoma Medical Marijuana and Patient Protection Act or rules promulgated pursuant thereto;

~~58.~~ 61. "School" means a public or private preschool, a public or private elementary or secondary school, or a technology center school which is primarily used for classroom instruction. A homeschool, daycare or child-care facility shall not be considered a

"school" as used in the Oklahoma Medical Marijuana and Patient Protection Act;

~~59.~~ 62. "Shipping container" means a hard-sided container with a lid or other enclosure that can be secured in place. A shipping container is used solely for the transport of medical marijuana, medical marijuana concentrate, or medical marijuana products between medical marijuana businesses, a medical marijuana research facility, or a medical marijuana education facility;

~~60.~~ 63. "Solvent-based medical marijuana concentrate" means a medical marijuana concentrate that was produced by extracting cannabinoids from medical marijuana through the use of a solvent approved by the Department;

~~61.~~ 64. "State Question" means Oklahoma State Question No. 788, Initiative Petition No. 412, approved by a majority vote of the citizens of Oklahoma on June 26, 2018;

~~62.~~ 65. "Strain" means the classification of marijuana or cannabis plants in either pure sativa, indica, afghanica, ruderalis or hybrid varieties;

~~63.~~ 66. "THC" means tetrahydrocannabinol, which is the primary psychotropic cannabinoid in marijuana formed by decarboxylation of naturally tetrahydrocannabinolic acid, which generally occurs by exposure to heat;

~~64.~~ 67. "Test batch" means with regard to usable marijuana, a homogenous, identified quantity of usable marijuana by strain, no

greater than ten (10) pounds, that is harvested during a seven-day period from a specified cultivation area, and with regard to oils, vapors and waxes derived from usable marijuana, means an identified quantity that is uniform, that is intended to meet specifications for identity, strength and composition, and that is manufactured, packaged and labeled during a specified time period according to a single manufacturing, packaging and labeling protocol;

~~65.~~ 68. "Transporter agent" means a person who transports medical marijuana or medical marijuana products for a licensed transporter and holds a transporter agent license pursuant to the Oklahoma Medical Marijuana and Patient Protection Act;

~~66.~~ 69. "Universal symbol" means the image established by the State Department of Health or Oklahoma Medical Marijuana Authority and made available to licensees through its website indicating that the medical marijuana or the medical marijuana product contains THC;

~~67.~~ 70. "Usable marijuana" means the dried leaves, flowers, oils, vapors, waxes and other portions of the marijuana plant and any mixture or preparation thereof, excluding seeds, roots, stems, stalks and fan leaves; and

~~68.~~ 71. "Water-based medical marijuana concentrate" means a concentrate that was produced by extracting cannabinoids from medical marijuana through the use of only water, ice or dry ice.

SECTION 4. AMENDATORY 63 O.S. 2021, Section 427.17, as last amended by Section 9, Chapter 322, O.S.L. 2023 (63 O.S. Supp. 2023, Section 427.17), is amended to read as follows:

Section 427.17. A. There is hereby created a medical marijuana testing laboratory license as a category of the medical marijuana business license. The Oklahoma Medical Marijuana Authority, the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, the Oklahoma State Bureau of Investigation, and the Attorney General are hereby enabled to monitor, inspect and audit a licensed testing laboratory under the Oklahoma Medical Marijuana and Patient Protection Act.

B. The Authority is hereby authorized to operate a quality assurance laboratory or to contract with a private laboratory for the purpose of conducting compliance testing of medical marijuana testing laboratories licensed in this state. Any such laboratory under contract for compliance testing shall be prohibited from conducting any other commercial medical marijuana testing in this state. If the Authority contracts with a private laboratory to implement the requirements of this section:

1. The laboratory shall not employ, or be owned by, the following:

a. any individual that has a direct or indirect interest in a licensed medical marijuana business, or

b. any individual or his or her spouse, parent, child, spouse of a child, sibling or spouse of a sibling that has an application for a medical marijuana business license pending before the Authority or is a member of the board of directors of a medical marijuana business, or is an individual financially interested in any licensee or medical marijuana business located within this state; and

2. The laboratory and a board or committee comprised of licensed Oklahoma medical marijuana laboratories currently accredited by the International Organization for Standardization (ISO) shall provide to the Authority its recommendations for all equipment and standards to be utilized by licensed medical marijuana testing laboratories when testing samples of medical marijuana, medical marijuana concentrate, and medical marijuana products as well as standard operating procedures when extracting and testing medical marijuana, medical marijuana concentrate, and medical marijuana products. The recommendations shall be submitted to the Authority no later than June 1, 2023. The Authority shall have ninety (90) days from the date it receives the recommendations to promulgate new rules or modify its current rules for laboratory standards and testing. Beginning June 1, 2024, medical marijuana testing laboratories renewing their medical marijuana business license shall be subject to and comply with any new or modified

rules relating to the testing of medical marijuana, medical marijuana concentrate, and medical marijuana products. The refusal or failure of a medical marijuana testing laboratory licensee to comply with new or modified rules relating to laboratory standards and testing procedures promulgated under the provisions of this paragraph shall result in the permanent revocation of the medical marijuana testing laboratory license.

C. The Authority shall develop acceptable testing practices including, but not limited to, testing, standards, quality control analysis, equipment certification and calibration, and chemical identification and substances used.

D. A person who is a direct beneficial owner of a medical marijuana dispensary, medical marijuana commercial grower or medical marijuana processor shall not be an owner of a laboratory.

E. A laboratory and a laboratory applicant shall comply with all applicable local ordinances including, but not limited to, zoning, occupancy, licensing and building codes.

F. A separate license shall be required for each specific laboratory.

G. A medical marijuana testing laboratory license may be issued to a person who performs testing on medical marijuana and medical marijuana products for medical marijuana businesses, medical marijuana research facilities, medical marijuana education facilities, and testing on marijuana and marijuana products grown or

produced by a patient or caregiver on behalf of a patient, upon verification of registration. A medical marijuana testing laboratory may also conduct research related to the development and improvement of its testing practices and procedures. No state-approved medical marijuana testing facility shall operate unless a medical laboratory director is on site during operational hours.

H. Laboratory applicants and licensees shall comply with the application requirements of this section and shall submit such other information as required for a medical marijuana business applicant, in addition to any information the Authority may request for initial approval and periodic evaluations during the approval period.

I. A medical marijuana testing laboratory may accept samples of medical marijuana, medical marijuana concentrate or medical marijuana product from a medical marijuana business, medical marijuana research facility or medical marijuana education facility for testing purposes only, which purposes may include the provision of testing services for samples submitted by a medical marijuana business for product development. The Authority may require a medical marijuana business to submit a sample of medical marijuana, medical marijuana concentrate or medical marijuana product to a medical marijuana testing or quality assurance laboratory upon demand.

J. A medical marijuana testing laboratory may accept samples of medical marijuana, medical marijuana concentrate or medical

marijuana product from an individual person for testing only under the following conditions:

1. The individual person is a patient or caregiver pursuant to the Oklahoma Medical Marijuana and Patient Protection Act or is a participant in an approved clinical or observational study conducted by a research facility; and

2. The medical marijuana testing laboratory shall require the patient or caregiver to produce a valid patient license and current and valid photo identification.

K. A medical marijuana testing laboratory may transfer samples to another medical marijuana testing laboratory for testing. All laboratory reports provided to or by a medical marijuana business or to a patient or caregiver shall identify the medical marijuana testing laboratory that actually conducted the test.

L. A medical marijuana testing laboratory may utilize a licensed medical marijuana transporter to transport samples of medical marijuana, medical marijuana concentrate and medical marijuana product for testing, in accordance with the Oklahoma Medical Marijuana and Patient Protection Act and the rules adopted pursuant thereto, between the originating medical marijuana business requesting testing services and the destination laboratory performing testing services.

M. The medical marijuana testing laboratory shall establish policies to prevent the existence of or appearance of undue

commercial, financial or other influences that may diminish the competency, impartiality and integrity of the testing processes or results of the laboratory, or that may diminish public confidence in the competency, impartiality and integrity of the testing processes or results of the laboratory. At a minimum, employees, owners or agents of a medical marijuana testing laboratory who participate in any aspect of the analysis and results of a sample are prohibited from improperly influencing the testing process, improperly manipulating data or improperly benefiting from any ongoing financial, employment, personal or business relationship with the medical marijuana business that provided the sample. A medical marijuana testing laboratory shall not test samples for any medical marijuana business in which an owner, employee or agent of the medical marijuana testing laboratory has any form of ownership or financial interest in the medical marijuana business.

N. The Authority, pursuant to rules promulgated by the Executive Director of the Authority, shall develop standards, policies and procedures as necessary for:

1. The cleanliness and orderliness of a laboratory premises and the location of the laboratory in a secure location, and inspection, cleaning and maintenance of any equipment or utensils used for the analysis of test samples;

2. Testing procedures, testing standards for cannabinoid and terpenoid potency and safe levels of contaminants, and remediation procedures;

3. Controlled access areas for storage of medical marijuana and medical marijuana product test samples, waste and reference standards;

4. Records to be retained and computer systems to be utilized by the laboratory;

5. The possession, storage and use by the laboratory of reagents, solutions and reference standards;

6. A certificate of analysis (COA) for each lot of reference standard;

7. The transport and disposal of unused marijuana, marijuana products and waste;

8. The mandatory use by a laboratory of an inventory tracking system to ensure all harvest and production batches or samples containing medical marijuana, medical marijuana concentrate or medical marijuana products are identified and tracked from the point they are transferred from a medical marijuana business, a patient or a caregiver through the point of transfer, destruction or disposal. The inventory tracking system reporting shall include the results of any tests that are conducted on medical marijuana, medical marijuana concentrate or medical marijuana product;

9. Standards of performance;

10. The employment of laboratory personnel;

11. A written standard operating procedure manual to be maintained and updated by the laboratory;

12. The successful participation in a proficiency testing program approved by the Executive Director for each testing category listed in this section, in order to obtain and maintain certification;

13. The establishment of and adherence to a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and quality of results reported;

14. The immediate recall of medical marijuana or medical marijuana products that test above allowable thresholds or are otherwise determined to be unsafe;

15. The establishment by the laboratory of a system to document the complete chain of custody for samples from receipt through disposal;

16. The establishment by the laboratory of a system to retain and maintain all required records, including business records, and processes to ensure results are reported in a timely and accurate manner; and

17. Any other aspect of laboratory testing of medical marijuana or medical marijuana product deemed necessary by the Executive Director.

O. A medical marijuana testing laboratory shall promptly provide the Authority or designee of the Authority access to a report of a test and any underlying data that is conducted on a sample at the request of a medical marijuana business or qualified patient. A medical marijuana testing laboratory shall also provide access to the Authority or designee of the Authority to laboratory premises and to any material or information requested by the Authority to determine compliance with the requirements of this section.

P. A medical marijuana testing laboratory shall retain all results of laboratory tests conducted on marijuana or products for a period of at least seven (7) years and shall make them available to the Authority upon request.

Q. A medical marijuana testing laboratory shall test samples from each final product harvest batch or final product batch, as appropriate, of medical marijuana, medical marijuana concentrate and medical marijuana product for each of the following categories of testing, consistent with standards developed by the Executive Director:

1. Microbials;

2. Mycotoxins;

3. Residual solvents;

4. Pesticides;

5. Tetrahydrocannabinol (THC) and other cannabinoid potency;

6. Terpenoid type and concentration; and

7. Heavy metals.

R. A licensed medical marijuana testing laboratory shall test each ~~individual harvest batch~~ final product batch. A grower shall separate each harvest of usable marijuana into final harvest batches containing no more than fifteen (15) pounds, with the exception of any plant material to be sold to a licensed processor for the purposes of turning the plant material into concentrate which may be separated into final harvest batches of no more than fifty (50) pounds. A processor shall separate each medical marijuana production lot into final production batches containing no more than four (4) liters of concentrate or nine (9) pounds for nonliquid products, and for final edible products, the Oklahoma Medical Marijuana Authority shall be authorized to promulgate rules on final products as necessary. Provided, however, the Authority shall not require testing of final products less often than every one thousand (1,000) grams of THC. As used in this subsection, "final edible products" shall include, but not be limited to, cookies, brownies, candies, gummies, beverages and chocolates.

S. Medical marijuana testing laboratory licensure shall be contingent upon successful on-site inspection, successful participation in proficiency testing and ongoing compliance with the applicable requirements in this section.

T. A medical marijuana testing laboratory shall be inspected prior to initial licensure and up to two (2) times per year thereafter by an inspector approved by the Authority. The Authority may enter the licensed premises of a testing laboratory to conduct investigations and additional inspections when the Authority believes an investigation or additional inspection is necessary due to a possible violation of applicable laws, rules or regulations.

U. Medical marijuana testing laboratories shall obtain accreditation by an accrediting body approved by the Executive Director or the Authority's quality assurance laboratory within one (1) year of the date the initial license is issued. Renewal of any medical marijuana testing laboratory license shall be contingent upon accreditation in accordance with this subsection. All medical marijuana testing laboratories shall obtain accreditation prior to applying for and receiving a medical marijuana testing laboratory license.

V. Unless authorized by the provisions of this section, a commercial grower shall not transfer or sell medical marijuana and a processor shall not transfer, sell or process into a concentrate or product any medical marijuana, medical marijuana concentrate or medical marijuana product unless samples from each <u>final</u> harvest batch or <u>final</u> production batch from which that medical marijuana, medical marijuana concentrate or medical marijuana product was derived has been tested by a medical marijuana testing laboratory

and passed all contaminant tests required by the Oklahoma Medical Marijuana and Patient Protection Act and applicable laws, rules and regulations. A licensed commercial grower may transfer medical marijuana that has failed testing to a licensed processor ~~only for the purposes of decontamination or remediation and only~~ in accordance with the provisions of the Oklahoma Medical Marijuana and Patient Protection Act and the rules and regulations promulgated by the Executive Director. ~~Remediated and decontaminated medical marijuana may be returned only to the originating licensed commercial grower.~~

W. Kief shall not be transferred or sold except as authorized in the rules and regulations promulgated by the Executive Director.

X. A licensed commercial grower or licensed processor shall not transfer any product to a licensed medical marijuana dispensary until the product has undergone final product testing. Laboratory testing that meets all contaminant tests and applicable laws, rules, and regulations required by the Oklahoma Medical Marijuana and Patient Protection Act shall only be required when the final product is completed and prior to transfer to a licensed medical marijuana dispensary, licensed medical marijuana patient, or licensed medical marijuana caregiver.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED SUBSTANCES, dated 04/11/2024 - DO PASS, As Amended.