

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1960

By: Fetgatter

4
5
6 AS INTRODUCED

7 An Act relating to medical marijuana; amending
8 Section 2, State Question No. 788, Initiative
9 Petition No. 412 (63 O.S. Supp. 2020, Section 421),
10 which relates to dispensary licensing requirements;
11 updating name of state agency; clarifying dispensary
12 licensing requirements and penalties; authorizing
13 dispensaries to deliver to certain private
14 residences; providing distance restrictions when
15 delivering medical marijuana products; providing an
16 exception; directing dispensaries to verify the
17 identity of patients and caregivers; requiring
18 patients and caregivers to provide certain
19 identifying information; amending Section 16, Chapter
20 11, O.S.L. 2019 (63 O.S. Supp. 2020, Section 427.16),
21 which relates to the Oklahoma Medical Marijuana and
22 Patient Protection Act; updating statutory references
23 and name of act; authorizing licensed transporters to
24 deliver marijuana products to licensed patients and
licensed caregivers; prohibiting repeat deliveries to
same patient, caregiver or location within certain
time period; providing for the promulgation of rules;
stating restrictions on deliveries made to patients
and caregivers to private residences; providing
distance restrictions when delivering medical
marijuana products; providing an exception; directing
transport agents to inspect and verify identity of
licensed patients and licensed caregivers prior to
transferring marijuana products; requiring inclusion
of patients and caregivers on certain inventory
manifest document; defining term; and providing an
effective date.

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

2 SECTION 1. AMENDATORY Section 2, State Question No. 788,
3 Initiative Petition No. 412 (63 O.S. Supp. 2020, Section 421), is
4 amended to read as follows:

5 Section 421. A. The ~~Oklahoma~~ State Department of Health shall,
6 within thirty (30) days of passage of this initiative, make
7 available, ~~on their~~ its website, ~~in an easy-to-find location,~~ an
8 application for a medical marijuana dispensary license. The
9 application fee shall be Two Thousand Five Hundred Dollars
10 (\$2,500.00) ~~and a.~~ A method of payment ~~will~~ shall be provided on
11 the website of the Department. ~~Retail~~ Dispensary applicants must
12 all be residents of the State of Oklahoma ~~state residents~~. Any
13 entity applying for a ~~retail~~ medical marijuana dispensary license
14 must be owned by ~~an~~ a resident of the State of Oklahoma ~~state~~
15 ~~resident~~ and must be registered to do business in Oklahoma. The
16 ~~Oklahoma~~ State Department of Health shall have two (2) weeks to
17 review the application, approve ~~or~~, reject or deny the application,
18 and mail the ~~approval/rejection~~ approval, rejection or denial letter
19 ~~(if rejected, stating any reasons for rejection)~~ or denial to the
20 applicant.

21 B. The ~~Oklahoma~~ State Department of Health ~~must~~ shall approve
22 all applications which meet the following criteria:

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

1 2. ~~Any~~ The applicant, if applying as an individual, must show
2 residency in the State of Oklahoma;

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

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

8 5. All applying individuals or entities must be registered to
9 conduct business in the State of Oklahoma; and

10 6. All applicants must disclose all ownership~~+~~.

11 ~~7. Applicant(s)~~ Applicants with ~~only~~ a nonviolent felony
12 ~~conviction(s)~~ conviction in the last two (2) years, any other felony
13 conviction in the last five ~~5 (years)~~ (5) years, inmates in the
14 custody of the Department of Corrections, or any person currently
15 incarcerated ~~may~~ shall not qualify for a medical marijuana
16 dispensary license.

17 C. ~~Retailers will~~ Dispensaries shall be required to complete a
18 monthly sales report to the ~~Oklahoma~~ State Department of Health.
19 This report ~~will~~ shall be due on the ~~15th~~ fifteenth of each month
20 and provide reporting on the previous month. This report ~~will~~ shall
21 detail the weight of marijuana purchased at wholesale and the weight
22 of marijuana sold to card holders~~7~~ and account for any waste. The
23 report ~~will~~ shall show total sales in dollars, tax collected in
24 dollars, and tax due in dollars. The ~~Oklahoma~~ State Department of

1 Health ~~will~~ shall have oversight and auditing responsibilities to
2 ensure that all marijuana being grown is accounted for. A ~~retailer~~
3 ~~will~~ dispensary shall only be subject to a penalty if a gross
4 discrepancy exists and cannot be explained. Penalties for
5 fraudulent reporting occurring within any ~~2-year~~ two-year time
6 period ~~will~~ shall be an initial fine of Five Thousand Dollars
7 (\$5,000.00) ~~(first)~~ for the first occurrence of fraudulent reporting
8 and revocation of ~~licensing~~ ~~(second)~~ the medical marijuana
9 dispensary license for a second occurrence of fraudulent reporting.

10 D. Only a licensed medical marijuana ~~retailer~~ dispensary may
11 conduct retail sales of marijuana, or marijuana derivatives in the
12 form provided by licensed processors, and these products ~~can~~ shall
13 only be sold to a licensed medical marijuana ~~license holder~~ patients
14 or ~~their caregiver~~ licensed medical marijuana caregivers. Penalties
15 for fraudulent sales occurring within any ~~2-year~~ two-year time
16 period ~~will~~ shall be an initial fine of Five Thousand Dollars
17 (\$5,000.00) ~~(first)~~ for the first occurrence of fraudulent sales and
18 revocation of ~~licensing~~ ~~(second)~~ the medical marijuana dispensary
19 license for a second occurrence of fraudulent sales.

20 E. Beginning on a date determined by the State Commissioner of
21 Health, but no later than one hundred eighty (180) days after the
22 effective date of this act, a licensed medical marijuana dispensary
23 may deliver medical marijuana, medical marijuana concentrate or
24 medical marijuana products to the private residence of a licensed

1 medical marijuana patient, the parent or legal guardian of a
2 licensed medical marijuana patient, or a licensed medical marijuana
3 caregiver. Delivery shall only be permitted if the private
4 residence is located within a ten-mile radius of the dispensary. If
5 no dispensary is located within a ten-mile radius of the private
6 residence, a dispensary outside of the ten-mile radius may deliver
7 to the private residence if the dispensary is located in the same
8 county as the private residence. When contacted by a licensed
9 medical marijuana patient or licensed caregiver for the purchase and
10 delivery of medical marijuana, medical marijuana concentrate or
11 medical marijuana products, the dispensary shall verify that the
12 patient or caregiver is qualified to purchase and receive a delivery
13 of medical marijuana, medical marijuana concentrate and medical
14 marijuana products. The information to be provided by a patient or
15 caregiver shall, at a minimum, include the following:

- 16 1. The name and date of birth of the patient or caregiver;
- 17 2. The ten- to twenty-four-character identification number
18 assigned to the medical marijuana patient or caregiver license;
- 19 3. If the patient is under eighteen (18) years of age, the name
20 and date of birth of the parent or legal guardian of the patient;
- 21 4. The address of the residence where the order will be
22 delivered; and
- 23 5. Any other information required by the State Department of
24 Health.

1 SECTION 2. AMENDATORY Section 16, Chapter 11, O.S.L.
2 2019 (63 O.S. Supp. 2020, Section 427.16), is amended to read as
3 follows:

4 Section 427.16 A. There is hereby created a medical marijuana
5 transporter license as a category of the medical marijuana business
6 license.

7 B. Pursuant to Section 424 of ~~Title 63 of the Oklahoma Statutes~~
8 this title, the Oklahoma Medical Marijuana Authority shall issue a
9 medical marijuana transporter license to licensed medical marijuana
10 commercial growers, processors and dispensaries upon issuance of
11 such licenses and upon each renewal.

12 C. A medical marijuana transporter license may also be issued
13 to qualifying applicants who are registered with the Oklahoma
14 Secretary of State and otherwise meet the requirements for a medical
15 marijuana business license set forth in ~~this act~~ the Oklahoma
16 Medical Marijuana and Patient Protection Act and the requirements
17 set forth in this section to provide logistics, distribution and
18 storage of medical marijuana, medical marijuana concentrate and
19 medical marijuana products.

20 D. A medical marijuana transporter license shall be valid for
21 one (1) year and shall not be transferred with a change of
22 ownership. A licensed medical marijuana transporter shall be
23 responsible for all medical marijuana, concentrate and products once
24 the transporter takes control of the ~~product~~ products.

1 E. A transporter license shall be required for any person or
2 entity to transport or transfer medical marijuana, concentrate or
3 ~~product~~ products from a:

4 1. A licensed medical marijuana business to another licensed
5 medical marijuana business, ~~or from a~~;

6 2. A licensed medical marijuana business to a medical marijuana
7 research facility or medical marijuana education facility; or

8 3. A licensed medical marijuana dispensary to a patient or a
9 caregiver who placed the order and who:

10 a. has a valid medical marijuana patient license, is the
11 parent or legal guardian of a patient with a valid
12 medical marijuana patient license or has a valid
13 medical marijuana caregiver license, and

14 b. possesses a current identification card issued by the
15 State of Oklahoma.

16 F. 1. A medical marijuana transporter licensee may contract
17 with multiple licensed medical marijuana businesses.

18 2. Beginning on a date determined by the State Commissioner of
19 Health, but no later than one hundred eighty (180) days after the
20 effective date of this act, a medical marijuana transporter licensee
21 may deliver medical marijuana, medical marijuana concentrate and
22 medical marijuana products to a licensed patient, the parent or
23 legal guardian of a licensed patient or a licensed caregiver. A
24 medical marijuana transporter shall be prohibited from delivering

1 medical marijuana, medical marijuana concentrate or medical
2 marijuana products more than once per day to the same patient,
3 parent or legal guardian of the patient, caregiver or private
4 residence. The State Commissioner of Health shall adopt rules
5 governing delivery of medical marijuana. Such rules shall, at a
6 minimum, limit the amount of medical marijuana, medical marijuana
7 concentrate and medical marijuana products a delivery vehicle may
8 transport and deliver to a licensed patient or licensed caregiver.

9 3. When delivering medical marijuana, medical marijuana
10 concentrate or medical marijuana products to a licensed patient,
11 parent or legal guardian of a licensed patient or a licensed
12 caregiver, the medical marijuana transporter shall deliver such
13 products only to the private residence of the patient, parent or
14 legal guardian of the patient, or caregiver. A medical marijuana
15 transporter shall deliver medical marijuana, medical marijuana
16 concentrate or medical marijuana products only to a private
17 residence located within a ten-mile radius of the dispensary from
18 which the medical marijuana, medical marijuana concentrate or
19 medical marijuana products were purchased. If no dispensary is
20 located within a ten-mile radius of the private residence, the
21 transporter may deliver from a dispensary outside of the ten-mile
22 radius to the private residence if the dispensary is located in the
23 same county as the private residence.

24

1 G. A medical marijuana transporter may maintain a licensed
2 premises to temporarily store medical marijuana, concentrate and
3 products and to use as a centralized distribution point. A medical
4 marijuana transporter may store and distribute medical marijuana,
5 concentrate and products from the licensed premises. The licensed
6 premises shall meet all security requirements applicable to a
7 medical marijuana business.

8 H. A medical marijuana transporter licensee shall use the seed-
9 to-sale tracking system developed pursuant to ~~this act~~ the Oklahoma
10 Medical Marijuana and Patient Protection Act to create shipping
11 manifests documenting the transport of medical marijuana,
12 concentrate and products throughout the state.

13 I. A licensed medical marijuana transporter may maintain and
14 operate one or more warehouses in the state to handle medical
15 marijuana, concentrate and products.

16 J. All medical marijuana, concentrate and product shall be
17 transported:

18 1. In vehicles equipped with Global Positioning System (GPS)
19 trackers;

20 2. In a locked container and clearly labeled "Medical Marijuana
21 or Derivative"; and

22 3. In a secured area of the vehicle that is not accessible by
23 the driver during transit.

24

1 K. 1. A transporter agent may possess marijuana at any
2 location while the transporter agent is transferring marijuana to or
3 from a licensed medical marijuana business, licensed medical
4 marijuana research facility ~~or~~, licensed medical marijuana education
5 facility, licensed medical marijuana patient or licensed medical
6 marijuana caregiver.

7 2. Prior to transferring possession of the medical marijuana,
8 medical marijuana concentrate or medical marijuana products to a
9 licensed patient, a parent or legal guardian of a licensed patient
10 or a licensed caregiver, the transporter agent shall inspect the
11 state-issued identification card of the patient, parent or legal
12 guardian of the patient or caregiver, and the medical marijuana
13 license of the patient or caregiver issued pursuant to Section 420
14 of this title. The transporter agent shall verify that the
15 information provided at the time of the order matches the name and
16 age on the state-issued identification card of the patient, parent
17 or legal guardian of the patient or caregiver.

18 The Department shall administer and enforce the provisions of
19 this section concerning transportation.

20 L. The Authority shall issue a transporter agent license to
21 individual agents, employees, officers or owners of a transporter
22 license in order for the individual to qualify to transport medical
23 marijuana, medical marijuana concentrate or medical marijuana
24 product.

1 M. The annual fee for a transporter agent license shall be One
2 Hundred Dollars (\$100.00) and shall be paid by the transporter
3 license holder or the individual applicant.

4 N. The Authority shall issue each transporter agent a registry
5 identification card within thirty (30) days of receipt of:

- 6 1. The name, address and date of birth of the person;
- 7 2. Proof of residency as required for a medical marijuana
8 business license;
- 9 3. Proof of identity as required for a medical marijuana
10 business license;
- 11 4. Possession of a valid Oklahoma driver license;
- 12 5. Verification of employment with a licensed transporter;
- 13 6. The application and affiliated fee; and
- 14 7. A criminal background check conducted by the Oklahoma State
15 Bureau of Investigation, paid for by the applicant.

16 O. If the transporter agent application is denied, the
17 Department shall notify the transporter in writing of the reason for
18 denying the registry identification card.

19 P. A registry identification card for a transporter shall
20 expire one (1) year after the date of issuance or upon notification
21 from the holder of the transporter license that the transporter
22 agent ceases to work as a transporter.

23 Q. The Department may revoke the registry identification card
24 of a transporter agent who knowingly violates any provision of this

1 section, and the transporter is subject to any other penalties
2 established by law for the violation.

3 R. The Department may revoke or suspend the transporter license
4 of a transporter that the Department determines knowingly aided or
5 facilitated a violation of any provision of this section, and the
6 licenseholder is subject to any other penalties established in law
7 for the violation.

8 S. Vehicles used in the transport of medical marijuana, medical
9 marijuana concentrate or medical marijuana product shall be:

10 1. Insured at or above the legal requirements in Oklahoma;

11 2. Capable of securing medical marijuana, medical marijuana
12 concentrate or medical marijuana product during transport; and

13 3. In possession of a shipping container as defined in ~~this act~~
14 the Oklahoma Medical Marijuana and Patient Protection Act capable of
15 securing all transported product.

16 T. Prior to the transport of any medical marijuana, medical
17 marijuana concentrate or ~~products~~ medical marijuana product, an
18 inventory manifest shall be prepared at the origination point of the
19 medical marijuana, medical marijuana concentrate or medical
20 marijuana product. The inventory manifest shall include the
21 following information:

22 1. For the origination point of the medical marijuana, medical
23 marijuana concentrate or medical marijuana products:

24

- 1 a. the licensee number for the commercial grower,
2 processor or dispensary,
3 b. address of origination of transport, and
4 c. name and contact information for the originating
5 licensee;

6 2. For the end recipient license holder of the medical
7 marijuana, medical marijuana concentrate or medical marijuana
8 product:

- 9 a. the license number for the patient, caregiver,
10 dispensary, commercial grower, processor, research
11 facility or education facility destination,
12 b. address of the destination, and
13 c. name and contact information for the destination
14 licensee;

15 3. Quantities by weight or unit of each type of medical
16 marijuana, medical marijuana concentrate or medical marijuana
17 product contained in transport;

18 4. The date of the transport and the approximate time of
19 departure;

20 5. The arrival date and estimated time of arrival;

21 6. Printed names and signatures of the personnel accompanying
22 the transport; and

23 7. Notation of the transporting licensee.
24

1 U. 1. A separate inventory manifest shall be prepared for each
2 licensee receiving the medical marijuana, medical marijuana
3 concentrate or medical marijuana product.

4 2. The transporter agent shall provide the other medical
5 marijuana business with a copy of the inventory manifest at the time
6 the product changes hands and after the other licensee prints his or
7 her name and signs the inventory manifest.

8 3. An inventory manifest shall not be altered after departing
9 the originating premises other than in cases where the printed name
10 and signature of receipt by the receiving licensee is necessary.

11 4. A receiving licensee shall refuse to accept any medical
12 marijuana, medical marijuana concentrate or medical marijuana
13 product that is not accompanied by an inventory manifest.

14 5. Originating and receiving licensees shall maintain copies of
15 inventory manifests and logs of quantities of medical marijuana,
16 medical marijuana concentrate or medical marijuana product received
17 for three (3) years from date of receipt.

18 V. As used in this section, "private residence" means the
19 private premises where a person lives, such as a private dwelling
20 place or place of habitation, and specifically excludes any premises
21 located at a public or private school or on the campus of an
22 institution of higher education.

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SECTION 3. This act shall become effective November 1, 2021.

58-1-5042 GRS 11/18/20