

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 2601

By: Echols of the House

and

McCortney of the Senate

8 An Act relating to marijuana; amending Section 1,
State Question No. 788, Initiative Petition No. 412
9 (63 O.S. Supp. 2018, Section 420), which relates to
licensing requirements and restrictions for medical
10 marijuana license holders and caregivers; providing
for revocation of medical marijuana license in
11 certain circumstances; defining term; authorizing
counties to establish, assess and collect a fee under
12 certain circumstances; providing for duties and
powers of the Oklahoma State Department of Health;
13 and declaring an emergency.

14
15
16 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

17
18 "[medical marijuana - license - tax on retail - use
registry - noncodification -
19 ~~emergency~~]

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

22 SECTION 1. NEW LAW A new section of law not to be
23 codified in the Oklahoma Statutes reads as follows:
24

1 The provisions of this act shall be implemented in accordance
2 with and subject to the Oklahoma Medical Marijuana and Patient
3 Protection Act.

4 SECTION 2. AMENDATORY Section 1, State Question No. 788,
5 Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 420), is
6 amended to read as follows:

7 Section 420. A. A person in possession of a state issued
8 medical marijuana license shall be able to:

- 9 1. Consume marijuana legally;
- 10 2. Legally possess up to three (3) ounces of marijuana on their
11 person;
- 12 3. Legally possess six (6) mature marijuana plants;
- 13 4. Legally possess six (6) seedling plants;
- 14 5. Legally possess one (1) ounce of concentrated marijuana;
- 15 6. Legally possess seventy-two (72) ounces of edible marijuana;
- 16 and
- 17 7. Legally possess up to eight (8) ounces of marijuana in their
18 residence.

19 B. Possession of up to one and one-half (1.5) ounces of
20 marijuana by persons who can state a medical condition, but are not
21 in possession of a state issued medical marijuana license, shall
22 constitute a misdemeanor offense with a fine not to exceed Four
23 Hundred Dollars (\$400.00).

1 C. A regulatory office shall be established under the ~~Oklahoma~~
2 State Department of Health which ~~will~~ shall receive applications for
3 medical marijuana license recipients, dispensaries, growers, and
4 packagers within sixty (60) days of the passage of this initiative.

5 D. The ~~Oklahoma~~ State Department of Health shall, within thirty
6 (30) days of passage of this initiative, make available, on their
7 website, in an easy to find location, an application for a medical
8 marijuana license. The license ~~will be good~~ shall be valid for two
9 (2) years, and the application fee ~~will~~ shall be One Hundred Dollars
10 (\$100.00), or Twenty Dollars (\$20.00) for individuals on Medicaid,
11 Medicare, or SoonerCare. The methods of payment ~~will~~ shall be
12 provided on the Department's website.

13 E. A temporary license application ~~will~~ shall also be made
14 available on the ~~Oklahoma Department of Health~~ Department's website.
15 A temporary medical marijuana license ~~will~~ shall be granted to any
16 medical marijuana license holder from other states, provided that
17 the state has a state regulated medical marijuana program, and the
18 applicant can prove they are a member of such program. Temporary
19 licenses ~~will~~ shall be issued for thirty (30) days. The cost for a
20 temporary license shall be One Hundred Dollars (\$100.00). Renewal
21 ~~will~~ shall be granted with resubmission of a new application. No
22 additional criteria ~~will~~ shall be required.

23 F. Medical marijuana license applicants ~~will~~ shall submit their
24 application to the ~~Oklahoma~~ State Department of Health for approval

1 ~~and that the applicant must.~~ The applicant shall be an Oklahoma
2 state resident and shall prove residency by a valid driver's
3 license, utility bills, or other accepted methods.

4 G. The ~~Oklahoma~~ State Department of Health shall review the
5 medical marijuana application, ~~approve/reject~~ approve or reject the
6 application, and mail the applicant's approval or rejection letter
7 ~~(stating reasons for rejection),~~ stating any reasons for rejection,
8 to the applicant within fourteen (14) business days of receipt of
9 the application. Approved applicants ~~will~~ shall be issued a medical
10 marijuana license which ~~will~~ shall act as proof of their approved
11 status. Applications may only be rejected based on the applicant
12 not meeting stated criteria or improper completion of the
13 application.

14 H. The ~~Oklahoma~~ State Department of Health ~~will~~ shall only keep
15 the following records for each approved medical marijuana license:

- 16 1. A digital photograph of the license holder;
- 17 2. The expiration date of the license;
- 18 3. The county where the card was issued; and
- 19 4. A unique ~~24-character~~ 24-character identification number
20 assigned to the license.

21 I. The State Department of Health ~~will~~ shall make available,
22 both on its website, and through a telephone verification system, an
23 easy method to validate a medical marijuana license ~~holders~~ holder's
24 authenticity by the unique ~~24-character~~ 24-character identifier.

1 J. The State Department of Health ~~will~~ shall ensure that all
2 application records and information are sealed to protect the
3 privacy of medical marijuana license applicants.

4 K. A caregiver license ~~will~~ shall be made available for
5 qualified caregivers of a medical marijuana license holder who is
6 homebound. The caregiver license ~~will~~ shall give the caregiver the
7 same rights as the medical marijuana license holder. Applicants for
8 a caregiver license ~~will~~ shall submit proof of the medical marijuana
9 license holder's license status and homebound status, proof that
10 they are the designee of the medical marijuana license holder, ~~must~~
11 ~~submit~~ proof that the caregiver is age eighteen (18) or older, and
12 ~~must submit~~ proof the caregiver is an Oklahoma resident. This ~~will~~
13 shall be the only criteria for a caregiver license.

14 L. All applicants ~~must~~ shall be eighteen (18) years or older.
15 A special exception ~~will~~ shall be granted to an applicant under the
16 age of eighteen (18), however these applications ~~must~~ shall be
17 signed by two (2) physicians and the applicant's parent or legal
18 guardian.

19 M. All applications for a medical marijuana license ~~must~~ shall
20 be signed by an Oklahoma Board certified physician. There are no
21 qualifying conditions. A medical marijuana license ~~must~~ shall be
22 recommended according to the accepted standards a reasonable and
23 prudent physician would follow when recommending or approving any
24

1 medication. No physician may be unduly stigmatized or harassed for
2 signing a medical marijuana license application.

3 N. Counties and cities may enact medical marijuana guidelines
4 allowing medical marijuana license holders or caregivers to exceed
5 the state limits set forth in subsection A of this section.

6 SECTION 3. AMENDATORY Section 7, State Question No. 788,
7 Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 426), is
8 amended to read as follows:

9 Section 426. A. The tax on retail medical marijuana sales ~~will~~
10 shall be established at seven percent (7%) of the gross amount
11 received by the seller.

12 B. ~~This~~ The tax ~~will~~ hereby levied shall be collected at the
13 ~~point~~ time of sale of medical marijuana and shall be due and payable
14 to the Oklahoma Tax Commission by the seller on the twentieth day of
15 each month following the month of the sale. The Commission shall
16 implement such rules and devise such forms as it deems necessary for
17 the orderly collection of the tax. Tax proceeds ~~will~~ shall be
18 applied primarily to finance the regulatory office.

19 C. If proceeds from the levy authorized by subsection A of this
20 section exceed the budgeted amount for running the regulatory
21 office, any surplus shall be apportioned with seventy-five percent
22 (75%) going to the General Revenue Fund and may only be expended for
23 common education. Twenty-five percent (25%) shall be apportioned to
24

1 the Oklahoma State Department of Health and earmarked for drug and
2 alcohol rehabilitation.

3 SECTION 4. AMENDATORY Section 7 of Enrolled House Bill
4 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
5 amended to read as follows:

6 Section 7. A. The Oklahoma Medical Marijuana Authority shall
7 create a medical marijuana use registry of patients and caregivers
8 as provided under this section. The handling of any records
9 maintained in the registry shall comply with all relevant state and
10 federal laws including, but not limited to, the Health Insurance
11 Portability and Accountability Act of 1996 (HIPAA).

12 B. The medical marijuana use registry shall be accessible to
13 Oklahoma-licensed medical marijuana dispensaries to verify the
14 license of a patient or caregiver by the twenty-four-character
15 identifier.

16 C. All other records regarding a medical marijuana licensee
17 shall be maintained by the Authority and shall be deemed
18 confidential. The handling of any records maintained by the
19 Authority shall comply with all relevant state and federal laws
20 including, but not limited to, the Health Insurance Portability and
21 Accountability Act of 1996 (HIPAA). Such records shall be marked as
22 confidential, shall not be made available to the public and shall
23 only be made available to the licensee, designee of the licensee,
24 any physician of the licensee or the caregiver of the licensee. ~~No~~

1 ~~personally identifiable information, as defined under HIPAA, shall~~
2 ~~be stored at the Department.~~

3 D. A log shall be kept with the file of the licensee to record
4 any event in which the records of the licensee were made available
5 and to whom the records were provided.

6 E. The Department shall ensure that all application records and
7 information are sealed to protect the privacy of medical marijuana
8 patient license applicants.

9 ~~SECTION 5. It being immediately necessary for the preservation~~
10 ~~of the public peace, health or safety, an emergency is hereby~~
11 ~~declared to exist, by reason whereof this act shall take effect and~~
12 ~~be in full force from and after its passage and approval."~~

13 and when the title is restored, amend the title to
14 conform

15 Passed the Senate the 25th day of April, 2019.

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17 _____
18 Presiding Officer of the Senate

19 Passed the House of Representatives the ____ day of _____,
20 2019.

21
22 _____
23 Presiding Officer of the House
24 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 2601

By: Echols of the House

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7 An Act relating to marijuana; amending Section 1,
8 State Question No. 788, Initiative Petition No. 412
9 (63 O.S. Supp. 2018, Section 420), which relates to
10 licensing requirements and restrictions for medical
11 marijuana license holders and caregivers; providing
12 for revocation of medical marijuana license in
13 certain circumstances; defining term; authorizing
14 counties to establish, assess and collect a fee under
15 certain circumstances; providing for duties and
16 powers of the Oklahoma State Department of Health;
17 and declaring an emergency.

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

19 SECTION 6. AMENDATORY Section 1, State Question No. 788,
20 Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 420), is
21 amended to read as follows:

22 Section 420. A. A person in possession of a state-issued
23 medical marijuana license shall be able to:

- 24 1. Consume marijuana legally;
2. Legally possess up to three (3) ounces of marijuana on their
person;
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1 4. Legally possess six ~~(6)~~ seedling plants;

2 5. Legally possess one (1) ounce of concentrated marijuana;

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4 and

5 7. Legally possess up to eight (8) ounces of marijuana in their
6 residence.

7 B. Possession of up to one and one-half (1.5) ounces of
8 marijuana by persons who can state a medical condition, but not in
9 possession of a state-issued medical marijuana license, shall
10 constitute a misdemeanor offense with a fine not to exceed Four
11 Hundred Dollars (\$400.00).

12 C. A regulatory office shall be established under the Oklahoma
13 State Department of Health which will receive applications for
14 medical license recipients, dispensaries, growers, and packagers
15 within sixty (60) days of the passage of this initiative.

16 D. The Oklahoma State Department of Health shall within thirty
17 (30) days of passage of this initiative, make available, on ~~their~~
18 its website, in an easy-to-find location, an application for a
19 medical marijuana license. The license will be good for two (2)
20 years, and the application fee will be One Hundred Dollars
21 (\$100.00), or Twenty Dollars (\$20.00) for individuals on Medicaid,
22 Medicare, or SoonerCare. The methods of payment will be provided on
23 the website.

1 E. A temporary license application will also be available on
2 the Oklahoma Department of Health website. A temporary medical
3 marijuana license will be granted to any medical marijuana license
4 holder from other states, provided that the state has a state_
5 regulated medical marijuana program, and the applicant can prove
6 ~~they are~~ he or she is a member of such. Temporary licenses will be
7 issued for thirty (30) days. The cost for a temporary license shall
8 be One Hundred Dollars (\$100.00). Renewal will be granted with
9 resubmission of a new application. No additional criteria will be
10 required.

11 F. Medical marijuana license applicants will submit their
12 ~~application~~ applications to the Oklahoma State Department of Health
13 for approval ~~and that the~~. The applicant must be an Oklahoma state
14 resident and shall prove residency by a valid ~~driver's~~ driver
15 license, utility bills, or other accepted methods.

16 G. The Oklahoma State Department of Health shall review the
17 medical marijuana application, ~~approve/reject~~ approve or reject the
18 application, and mail the ~~applicant's~~ approval or rejection letter
19 ~~(stating reasons for rejection)~~ to the applicant within fourteen
20 (14) days of receipt of the application. Approved applicants will
21 be issued a medical marijuana license which will act as proof of
22 their approved status. Applications may only be rejected based on
23 applicant not meeting stated criteria or improper completion of the
24 application.

1 H. The Oklahoma State Department of Health will only keep the
2 following records for each approved medical license:

- 3 1. A digital photograph of the license holder;
- 4 2. The expiration date of the license;
- 5 3. The county where the card was issued; and
- 6 4. A unique 24-character identification number assigned to the
7 license.

8 I. The Department of Health will make available, both on its
9 website, and through a telephone verification system, an easy method
10 to validate ~~a medical license holders~~ the authenticity of the
11 medical license by the unique 24-character identifier.

12 J. The State Department of Health will ensure that all
13 application records and information are sealed to protect the
14 privacy of medical license applicants.

15 K. A caregiver license will be made available for qualified
16 caregivers of a medical marijuana license holder who is homebound.
17 The caregiver license will give the caregiver the same rights as the
18 medical license holder. ~~Applicants~~ An applicant for a caregiver
19 license ~~will~~ shall submit proof of the ~~medical marijuana license~~
20 ~~holder's~~ license status and homebound status, ~~that they are~~ of the
21 medical marijuana patient and proof that the applicant is the
22 designee of the medical marijuana license holder, must patient. The
23 applicant shall also submit proof that ~~the caregiver~~ he or she is
24 ~~age~~ eighteen (18) years of age or older, ~~and must submit~~ proof ~~the~~

1 ~~caregiver is an~~ of his or her Oklahoma resident residency. This
2 will be the only criteria for a caregiver license.

3 L. All applicants must be eighteen (18) years of age or older.

4 A special exception will be granted to an applicant under the age of
5 eighteen (18)~~;~~ however, these applications must be signed by two
6 ~~(2)~~ physicians and the ~~applicant's~~ parent or legal guardian of the
7 applicant.

8 M. 1. All applications for a medical license must be signed by
9 an Oklahoma Board-certified physician. There are no qualifying
10 conditions. A medical marijuana license must be recommended
11 according to the accepted standards a reasonable and prudent
12 physician would follow when recommending or approving any
13 medication. No physician may be unduly stigmatized or harassed for
14 signing a medical marijuana license application.

15 2. If the referring physician determines the continued use of
16 medical marijuana by the patient no longer meets the requirements
17 set forth in the medical marijuana program, the physician shall
18 notify the Department and the Oklahoma Medical Marijuana Authority
19 shall immediately revoke the license.

20 3. For purposes of the medical marijuana program, the term
21 "physician" means a doctor of medicine, a doctor of osteopathic
22 medicine or a doctor of podiatric medicine who holds a valid,
23 unrestricted and existing license to practice in the State of
24 Oklahoma and meets the definition of board certified under rules

1 established by either the State Board of Medical Licensure and
2 Supervision, the State Board of Osteopathic Examiners or the State
3 Board of Podiatric Medical Examiners.

4 N. Counties and cities may enact medical marijuana guidelines
5 allowing medical marijuana license holders or caregivers to exceed
6 the state limits set forth in subsection A of this section. A
7 county is hereby authorized to establish, assess and collect a fee
8 of Two Hundred Fifty Dollars (\$250.00) from medical marijuana
9 licensees or caregivers who, upon request and approval by the county
10 where the person currently resides, exceed the maximum possession
11 limits established in subsection A of this section. The authority
12 granted by a county to a medical marijuana licensee or caregiver to
13 exceed maximum possession limits shall apply only within the borders
14 of said county.

15 O. The Department shall exercise its respective powers and
16 perform its respective duties and functions as specified in the
17 medical marijuana program and Title 63 of the Oklahoma Statutes
18 including, but not limited to, the following:

19 1. Determine steps the state shall take, whether administrative
20 or legislative in nature, to ensure that research on marijuana and
21 marijuana products is being conducted for public purposes, including
22 the advancement of:

- 23 a. public health policy and public safety policy,
24 b. agronomic and horticultural best practices, and

1 c. medical and pharmacopoeia best practices;

2 2. Contract with third-party vendors and other governmental
3 entities in order to carry out the respective duties and functions
4 as specified in the medical marijuana program;

5 3. Upon complaint or upon its own motion and upon a completed
6 investigation, levy fines as prescribed in the medical marijuana
7 program and suspend or revoke licenses pursuant to the medical
8 marijuana program;

9 4. Issue subpoenas for the appearance or production of persons,
10 records and things in connection with disciplinary or contested
11 cases considered by the Department;

12 5. Apply for injunctive or declaratory relief to enforce the
13 provisions of this section and any rules promulgated pursuant to
14 this section;

15 6. Inspect and examine, with notice provided in accordance with
16 this act, all licensed premises of medical marijuana businesses,
17 research facilities and education facilities in which medical
18 marijuana is cultivated, manufactured, sold, stored, transported,
19 tested or distributed;

20 7. Work with the Oklahoma State Banking Department and the
21 State Treasurer to develop good practices and standards for banking
22 and finance for medical marijuana businesses;

23 8. Establish internal control procedures for licenses including
24 accounting procedures, reporting procedures and personnel policies;

9. Establish a fee schedule and collect fees for performing background checks as the Commissioner deems appropriate. The fees charged pursuant to this paragraph shall not exceed the actual cost incurred for each background check; and

10. Require verification for sources of finance for medical
marijuana businesses.

SECTION 7. 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.

Passed the House of Representatives the 13th day of March, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the day of , 2019.

Presiding Officer of the Senate