

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 2601

By: Echols of the House

and

McCortney of the Senate

7
8
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to medical marijuana; amending 21
11 O.S. 2011, Section 1247, as last amended by Section
12 1, Chapter 110, O.S.L. 2017 (21 O.S. Supp. 2018,
13 Section 1247), which relates to prohibitions on
14 smoking; prohibiting marijuana smoking and vaping in
15 public places; providing exception under certain
16 circumstances; amending 63 O.S. 2011, Section 1-1523,
17 as last amended by Section 2, Chapter 110, O.S.L.
18 2017 (63 O.S. Supp. 2018, Section 1-1523), which
19 relates to prohibitions on smoking; prohibiting
20 marijuana smoking and vaping in public places;
21 providing an exception; amending 63 O.S. 2011,
22 Section 1-1525, as amended by Section 3, Chapter 369,
23 O.S.L. 2017 (63 O.S. Supp. 2018, Section 1-1525),
24 which relates to measures to prevent smoking in
nonsmoking areas; directing agencies and persons who
operate public businesses to prevent marijuana
smoking and vaping in public places; providing for
the implementation of certain provisions in
accordance with the Oklahoma Medical Marijuana and
Patient Protection Act; amending Section 1, State
Question No. 788, Initiative Petition No. 412 (63
O.S. Supp. 2018, Section 420), which relates to
licensing requirements and restrictions for medical
marijuana license holders and caregivers; updating
and clarifying language; directing State Department
of Health to provide applications for short-term
medical marijuana licenses; stating requirements for
obtaining short-term medical marijuana license;

1 authorizing the Department to determine procedures
2 for extending and renewing licenses and setting fee;
3 amending Sections 3, 6, 7, 14, 21 and 23 of Enrolled
4 House Bill No. 2612 of the 1st Session of the 57th
5 Oklahoma Legislature, which relate to the Oklahoma
6 Medical Marijuana and Patient Protection Act;
7 removing restriction that prohibits the State
8 Department of Health from contracting with certain
9 vendors; directing the Department to work with the
10 Oklahoma State Banking Department and State Treasurer
11 to develop banking and finance standards upon certain
12 action by the federal government; clarifying scope of
13 certain disciplinary action; deleting mandate that
14 prohibits personally identifiable information from
15 being stored; updating and deleting duplicative
16 reference to Oklahoma Medical Marijuana Authority;
17 providing exception to certain residency requirement;
18 correcting certain statutory reference; clarifying
19 time frame for reviewing business applications;
20 removing licensing restriction for certain companies;
21 specifying advertising restrictions for medical
22 marijuana businesses; deleting the Banking Board from
23 requirement to promulgate rules; and providing for
24 noncodification.

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

16 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1247, as
17 last amended by Section 1, Chapter 110, O.S.L. 2017 (21 O.S. Supp.
18 2018, Section 1247), is amended to read as follows:

19 Section 1247. A. The possession of lighted tobacco in any form
20 is a public nuisance and dangerous to public health and is hereby
21 prohibited when such possession is in any indoor place used by or
22 open to the public, all parts of a zoo to which the public may be
23 admitted, whether indoors or outdoors, public transportation, or any
24 indoor workplace, except where specifically allowed by law.

1 Commercial airport operators may prohibit the use of lighted tobacco
2 or lighted marijuana or the vaping of marijuana in any area that is
3 open to or used by the public whether located indoors or outdoors,
4 provided that the outdoor area is within one hundred seventy-five
5 (175) feet from an entrance.

6 As used in this section, "indoor workplace" means any indoor
7 place of employment or employment-type service for or at the request
8 of another individual or individuals, or any public or private
9 entity, whether part-time or full-time and whether for compensation
10 or not. Such services shall include, without limitation, any
11 service performed by an owner, employee, independent contractor,
12 agent, partner, proprietor, manager, officer, director, apprentice,
13 trainee, associate, servant or volunteer. An indoor workplace
14 includes work areas, employee lounges, restrooms, conference rooms,
15 classrooms, employee cafeterias, hallways, any other spaces used or
16 visited by employees, and all space between a floor and ceiling that
17 is predominantly or totally enclosed by walls or windows, regardless
18 of doors, doorways, open or closed windows, stairways, or the like.
19 The provisions of this section shall apply to such indoor workplace
20 at any given time, whether or not work is being performed.

21 B. All buildings and other properties, or portions thereof,
22 owned or operated by this state shall be designated as nonsmoking.
23 The tobacco smoking provisions of this subsection shall not apply to
24 veterans centers operated by this state pursuant to the provisions

1 of Section 221 et seq. of Title 72 of the Oklahoma Statutes, which
2 shall be designated nonsmoking effective January 1, 2015, at which
3 time veterans centers may establish outdoor designated smoking areas
4 for resident veterans only. Smoking tobacco shall only be allowed
5 in designated outdoor smoking areas.

6 C. All buildings and other properties, or portions thereof,
7 owned or operated by a county or municipal government, at the
8 discretion of the county or municipal governing body, may be
9 designated as entirely nonsmoking.

10 D. All educational facilities or portions thereof as defined in
11 the Smoking in Public Places and Indoor Workplaces Act and all
12 educational facilities as defined in the 24/7 Tobacco-free Schools
13 Act shall be designated as nonsmoking as provided for in Section 1-
14 1523 of Title 63 of the Oklahoma Statutes. All campuses, buildings
15 and grounds, or portions thereof, owned or operated by an
16 institution within The Oklahoma State System of Higher Education may
17 be designated as tobacco and marijuana free, including smoking or
18 smokeless tobacco or smokable or vaporable marijuana, by the
19 institution upon adoption of a policy stating the ~~tobacco~~
20 restrictions for the institution and an intent to enforce the
21 penalty for violations as set forth in subsection M of this section.

22 E. No tobacco or marijuana smoking or marijuana vaping shall be
23 allowed within twenty-five (25) feet of the entrance or exit of any
24 building specified in subsection B, C or D of this section.

1 F. The restrictions on tobacco smoking provided in this section
2 shall not apply to stand-alone bars, stand-alone taverns and cigar
3 bars as defined in Section 1-1522 of Title 63 of the Oklahoma
4 Statutes.

5 G. The restrictions on tobacco smoking provided in this section
6 shall not apply to the following:

7 1. The room or rooms where licensed charitable bingo games are
8 being operated, but only during the hours of operation of such
9 games;

10 2. Up to twenty-five percent (25%) of the guest rooms at a
11 hotel or other lodging establishment;

12 3. Retail tobacco stores predominantly engaged in the sale of
13 tobacco products and accessories and in which the sale of other
14 products is merely incidental and in which no food or beverage is
15 sold or served for consumption on the premises;

16 4. Workplaces where only the owner or operator of the
17 workplace, or the immediate family of the owner or operator,
18 performs any work in the workplace, and the workplace has only
19 incidental public access. "Incidental public access" means that a
20 place of business has only an occasional person, who is not an
21 employee, present at the business to transact business or make a
22 delivery. It does not include businesses that depend on walk-in
23 customers for any part of their business;

24

1 5. Workplaces occupied exclusively by one or more tobacco
2 smokers, if the workplace has only incidental public access;

3 6. Private offices occupied exclusively by one or more smokers;

4 7. Workplaces within private residences, except that smoking
5 tobacco or marijuana or vaping marijuana shall not be allowed inside
6 any private residence that is used as a licensed child care facility
7 during hours of operation;

8 8. Medical research or treatment centers, if tobacco smoking is
9 integral to the research or treatment. Furthermore, the
10 restrictions on smoking or vaping of marijuana provided in this
11 section shall not apply to medical research or treatment centers, if
12 marijuana smoking or vaping is integral to the research or
13 treatment;

14 9. A facility operated by a post or organization of past or
15 present members of the Armed Forces of the United States which is
16 exempt from taxation pursuant to Section 501(c)(8), 501(c)(10) or
17 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section
18 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized
19 exclusively by its members and their families and for the conduct of
20 post or organization nonprofit operations except during an event or
21 activity which is open to the public; and

22 10. Any outdoor seating area of a restaurant; provided, smoking
23 tobacco or smoking or vaping marijuana shall not be allowed within
24

1 fifteen (15) feet of any exterior public doorway or any air intake
2 of a restaurant.

3 H. An employer not otherwise restricted from doing so may elect
4 to provide tobacco smoking rooms where no work is performed except
5 for cleaning and maintenance during the time the room is not in use
6 for tobacco smoking, provided each tobacco smoking room is fully
7 enclosed and exhausted directly to the outside in such a manner that
8 no tobacco smoke can drift or circulate into a nonsmoking area. No
9 exhaust from a tobacco smoking room shall be located within fifteen
10 (15) feet of any entrance, exit or air intake.

11 I. If tobacco smoking is to be permitted in any space exempted
12 in subsection F or G of this section or in a tobacco smoking room
13 pursuant to subsection H of this section, such tobacco smoking space
14 must either occupy the entire enclosed indoor space or, if it shares
15 the enclosed space with any nonsmoking areas, the tobacco smoking
16 space shall be fully enclosed, exhausted directly to the outside
17 with no air from the tobacco smoking space circulated to any
18 nonsmoking area, and under negative air pressure so that no tobacco
19 smoke can drift or circulate into a nonsmoking area when a door to
20 an adjacent nonsmoking area is opened. Air from a tobacco smoking
21 room shall not be exhausted within fifteen (15) feet of any
22 entrance, exit or air intake. Any employer may choose a more
23 restrictive tobacco smoking policy, including being totally tobacco
24 smoke free.

1 J. Notwithstanding any other provision of this section, until
2 March 1, 2006, restaurants may have designated tobacco smoking and
3 nonsmoking areas or may be designated as being a totally nonsmoking
4 area. Beginning March 1, 2006, restaurants shall be totally
5 nonsmoking or may provide nonsmoking areas and designated tobacco
6 smoking rooms. Food and beverage may be served in such designated
7 tobacco smoking rooms which shall be in a location which is fully
8 enclosed, directly exhausted to the outside, under negative air
9 pressure so tobacco smoke cannot escape when a door is opened, and
10 no air is recirculated to nonsmoking areas of the building. No
11 exhaust from such room shall be located within twenty-five (25) feet
12 of any entrance, exit or air intake. Such room shall be subject to
13 verification for compliance with the provisions of this subsection
14 by the State Department of Health.

15 K. The person who owns or operates a place where tobacco
16 smoking or ~~tobacco~~ use is prohibited by law shall be responsible for
17 posting a sign or decal, at least four (4) inches by two (2) inches
18 in size, at each entrance to the building indicating that the place
19 is smoke-free or tobacco-free.

20 L. Responsibility for posting signs or decals shall be as
21 follows:

22 1. In privately owned facilities, the owner or lessee, if a
23 lessee is in possession of the facilities, shall be responsible;
24

1 2. In corporately owned facilities, the manager and/or
2 supervisor of the facility involved shall be responsible; and

3 3. In publicly owned facilities, the manager and/or supervisor
4 of the facility shall be responsible.

5 M. Any person who knowingly violates the provisions of this
6 section shall be punished by a citation and fine of not more than
7 One Hundred Dollars (\$100.00).

8 SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-1523, as
9 last amended by Section 2, Chapter 110, O.S.L. 2017 (63 O.S. Supp.
10 2018, Section 1-1523), is amended to read as follows:

11 Section 1-1523. A. Except as specifically provided in the
12 Smoking in Public Places and Indoor Workplaces Act, no person shall
13 smoke tobacco or marijuana or vape marijuana in a public place, in
14 any part of a zoo to which the public may be admitted, whether
15 indoors or outdoors, in an indoor workplace, in any vehicle
16 providing public transportation, at a meeting of a public body, in a
17 nursing facility licensed pursuant to the Nursing Home Care Act, or
18 in a child care facility licensed pursuant to the Oklahoma Child
19 Care Facilities Licensing Act. A nursing facility licensed pursuant
20 to the Nursing Home Care Act may designate tobacco smoking rooms for
21 residents and their guests. Such rooms shall be fully enclosed,
22 directly exhausted to the outside, and shall be under negative air
23 pressure so that no tobacco smoke can escape when a door is opened
24 and no air is recirculated to nonsmoking areas of the building.

1 Commercial airport operators may prohibit the use of lighted tobacco
2 or lighted marijuana or the vaping of marijuana in any area that is
3 open to or used by the public whether located indoors or outdoors,
4 provided that the outdoor area is within one hundred seventy-five
5 (175) feet from an entrance.

6 B. 1. Except as otherwise provided in paragraph 2 of this
7 subsection, a technology center school district which offers an
8 early childhood education program or in which children in grades
9 kindergarten through twelve are educated shall prohibit tobacco or
10 marijuana smoking or marijuana vaping, the use of marijuana
11 products, snuff, chewing tobacco or any other form of tobacco
12 product in the educational facility buildings and on the grounds of
13 the facility by all persons including, but not limited to, full-
14 time, part-time, and contract employees, during the hours of 7:00
15 a.m. to 4:00 p.m., during the school session, or when class or any
16 program established for students is in session.

17 2. A technology center school district may designate tobacco
18 smoking areas outside of buildings, away from general traffic areas
19 and completely out of sight of children under eighteen (18) years of
20 age, for use by adults attending training courses, sessions,
21 meetings or seminars.

22 3. A technology center school district or college or university
23 may designate tobacco smoking areas outside the educational facility
24

1 buildings for the use of adults during certain activities or
2 functions, including, but not limited to, athletic contests.

3 4. Smoking tobacco or marijuana or vaping marijuana shall be
4 prohibited in an educational facility as defined in the 24/7
5 Tobacco-free Schools Act and as provided for in Section 1210.213 of
6 Title 70 of the Oklahoma Statutes.

7 C. Nothing in this section shall be construed to prohibit
8 educational facilities from having more restrictive policies
9 regarding tobacco or marijuana smoking or marijuana vaping and the
10 use of other marijuana or tobacco products in the buildings or on
11 the grounds of the facility.

12 D. A private residence is not a "public place" within the
13 meaning of the Smoking in Public Places and Indoor Workplaces Act
14 except that areas in a private residence that are used as a licensed
15 child care facility during hours of operation are "public places"
16 within the meaning of the Smoking in Public Places and Indoor
17 Workplaces Act.

18 E. Smoking tobacco or marijuana or vaping marijuana is
19 prohibited in all vehicles owned by the State of Oklahoma and all of
20 its agencies and instrumentalities.

21 F. Veterans centers operated by this state pursuant to the
22 provisions of Section 221 et seq. of Title 72 of the Oklahoma
23 Statutes shall be designated nonsmoking effective January 1, 2015,
24 at which time veterans centers may establish outdoor designated

1 smoking areas for resident veterans only. Smoking tobacco shall
2 only be allowed in designated outdoor smoking areas.

3 G. An employer not otherwise restricted from doing so may elect
4 to provide tobacco smoking rooms where no work is performed except
5 for cleaning and maintenance during the time the room is not in use
6 for tobacco smoking, provided each tobacco smoking room is fully
7 enclosed and exhausted directly to the outside, in such manner that
8 no tobacco smoke can drift or circulate into a nonsmoking area. No
9 exhaust from a tobacco smoking room shall be located within fifteen
10 (15) feet of any entrance, exit or air intake. If tobacco smoking
11 is to be permitted in any space exempted in subsection H of this
12 section or in a tobacco smoking room pursuant to subsection I of
13 this section, such tobacco smoking space must either occupy the
14 entire enclosed indoor space or, if it shares the enclosed space
15 with any nonsmoking areas, the tobacco smoking space shall be fully
16 enclosed, exhausted directly to the outside with no air from the
17 tobacco smoking space circulated to any nonsmoking area, and under
18 negative air pressure so that no tobacco smoke can drift or
19 circulate into a nonsmoking area when a door to an adjacent
20 nonsmoking area is opened. Air from a tobacco smoking room shall
21 not be exhausted within fifteen (15) feet of any entrance, exit or
22 air intake.

23 H. The Smoking in Public Places and Indoor Workplaces Act shall
24 not prohibit tobacco smoking in:

- 1 1. Stand-alone bars, stand-alone taverns or cigar bars;
- 2 2. The room or rooms where licensed charitable bingo games are
3 being operated, but only during the hours of operation of such
4 games;
- 5 3. Up to twenty-five percent (25%) of the guest rooms at a
6 hotel or other lodging establishment;
- 7 4. Retail tobacco stores predominantly engaged in the sale of
8 tobacco products and accessories and in which the sale of other
9 products is merely incidental and in which no food or beverage is
10 sold or served for consumption on the premises;
- 11 5. Workplaces where only the owner or operator of the
12 workplace, or the immediate family of the owner or operator,
13 performs any work in the workplace, and the workplace has only
14 incidental public access;
- 15 6. Workplaces occupied exclusively by one or more tobacco
16 smokers, if the workplace has only incidental public access.
17 "Incidental public access" means that a place of business has only
18 an occasional person, who is not an employee, present at the
19 business to transact business or make a delivery. It does not
20 include businesses that depend on walk-in customers for any part of
21 their business;
- 22 7. Private offices occupied exclusively by one or more smokers;
- 23 8. Workplaces within private residences, except that smoking
24 tobacco or marijuana or vaping marijuana shall not be allowed inside

1 any private residence that is used as a licensed child care facility
2 during hours of operation;

3 9. A facility operated by a post or organization of past or
4 present members of the Armed Forces of the United States which is
5 exempt from taxation pursuant to Sections 501(c)(8), 501(c)(10) or
6 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section
7 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized
8 exclusively by its members and their families and for the conduct of
9 post or organization nonprofit operations except during an event or
10 activity which is open to the public;

11 10. Any outdoor seating area of a restaurant; provided, tobacco
12 or marijuana smoking or vaping marijuana shall not be allowed within
13 fifteen (15) feet of any exterior public doorway or any air intake
14 of a restaurant; and

15 11. Medical research or treatment centers, if tobacco smoking
16 is integral to the research or treatment. Furthermore, the
17 restrictions on smoking or vaping of marijuana provided in this
18 section shall not apply to medical research or treatment centers, if
19 marijuana smoking or vaping is integral to the research or
20 treatment.

21 I. Notwithstanding any other provision of the Smoking in Public
22 Places and Indoor Workplaces Act, until March 1, 2006, restaurants
23 may have designated tobacco smoking and nonsmoking areas or may be
24 designated as being a totally nonsmoking area. Beginning March 1,

1 2006, restaurants shall be totally nonsmoking or may provide
2 nonsmoking areas and designated tobacco smoking rooms. Food and
3 beverage may be served in such designated tobacco smoking rooms
4 which shall be in a location which is fully enclosed, directly
5 exhausted to the outside, under negative air pressure so tobacco
6 smoke cannot escape when a door is opened, and no air is
7 recirculated to nonsmoking areas of the building. No exhaust from
8 such room shall be located within twenty-five (25) feet of any
9 entrance, exit or air intake. Such room shall be subject to
10 verification for compliance with the provisions of this subsection
11 by the State Department of Health.

12 SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-1525, as
13 amended by Section 3, Chapter 369, O.S.L. 2017 (63 O.S. Supp. 2018,
14 Section 1-1525), is amended to read as follows:

15 Section 1-1525. The state or local governmental agency or the
16 person who owns or operates a public place shall, at a minimum, do
17 the following in order to prevent tobacco or marijuana smoking or
18 marijuana vaping in public places:

19 1. Post conspicuous signs at entrances to and in prominent
20 locations within places where tobacco or marijuana smoking or
21 marijuana vaping is prohibited which state that tobacco or marijuana
22 smoking or marijuana vaping is prohibited or that the indoor
23 environment is free of tobacco or marijuana smoke or marijuana
24 vapor; and

1 2. Ask tobacco or marijuana smokers or marijuana vapers to
2 refrain from smoking upon observation of anyone violating the
3 provisions of Section 1-1521 et seq. of this title.

4 SECTION 4. NEW LAW A new section of law not to be
5 codified in the Oklahoma Statutes reads as follows:

6 The provisions of Sections 5 through 11 of this act shall be
7 implemented in accordance with and subject to the Oklahoma Medical
8 Marijuana and Patient Protection Act.

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

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

- 14 1. Consume marijuana legally;
- 15 2. Legally possess up to three (3) ounces of marijuana on their
16 person;
- 17 3. Legally possess six ~~(6)~~ mature marijuana plants;
- 18 4. Legally possess six ~~(6)~~ seedling plants;
- 19 5. Legally possess one (1) ounce of concentrated marijuana;
- 20 6. Legally possess seventy-two (72) ounces of edible marijuana;

21 and

- 22 7. Legally possess up to eight (8) ounces of marijuana in their
23 residence.

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

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

10 D. The ~~Oklahoma~~ State Department of Health shall, within thirty
11 (30) days of passage of this initiative, make available, ~~on their~~
12 its website, in an easy-to-find location, an application for a
13 medical marijuana license. The license ~~will~~ shall be good for two
14 (2) years, and the application fee ~~will~~ shall be One Hundred Dollars
15 (\$100.00), or Twenty Dollars (\$20.00) for individuals on Medicaid,
16 Medicare, or SoonerCare. The methods of payment ~~will~~ shall be
17 provided on the website of the Department.

18 E. A short-term medical marijuana license application shall
19 also be made available on the website of the State Department of
20 Health. A short-term medical marijuana license shall be granted to
21 any applicant who can meet the requirements for a two-year medical
22 marijuana license, but whose physician recommendation for medical
23 marijuana is only valid for sixty (60) days. Short-term medical
24 marijuana licenses shall be issued for sixty (60) days. The fee for

1 a short-term medical marijuana license and the procedure for
2 extending or renewing the license shall be determined by the
3 Department.

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

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

20 G. H. The ~~Oklahoma~~ State Department of Health shall review the
21 medical marijuana application, ~~approve/reject~~ approve or reject the
22 application, and mail the ~~applicant's~~ approval or rejection letter
23 ~~(stating reasons for rejection)~~ stating any reasons for rejection to
24 the applicant within fourteen (14) business days of receipt of the

1 application. Approved applicants ~~will~~ shall be issued a medical
2 marijuana license which ~~will~~ shall act as proof of their approved
3 status. Applications may only be rejected based on the applicant
4 not meeting stated criteria or improper completion of the
5 application.

6 ~~H.~~ I. The ~~Oklahoma~~ State Department of Health ~~will~~ shall only
7 keep the following records for each approved medical marijuana
8 license:

- 9 1. A digital photograph of the license holder;
- 10 2. The expiration date of the license;
- 11 3. The county where the card was issued; and
- 12 4. A unique 24-character identification number assigned to the
13 license.

14 ~~I.~~ J. The State Department of Health ~~will~~ shall make available,
15 both on its website, and through a telephone verification system, an
16 easy method to validate ~~a medical license holders~~ the authenticity
17 of the medical marijuana license by the unique 24-character
18 identifier.

19 ~~J.~~ K. The State Department of Health ~~will~~ shall ensure that all
20 application records and information are sealed to protect the
21 privacy of medical marijuana license applicants.

22 ~~K.~~ L. A caregiver license ~~will~~ shall be made available for
23 qualified caregivers of a medical marijuana license holder who is
24 homebound. The caregiver license ~~will~~ shall give the caregiver the

1 same rights as the medical marijuana license holder. ~~Applicants~~ An
2 applicant for a caregiver license ~~will~~ shall submit proof of the
3 ~~medical marijuana license holder's~~ license status and homebound
4 status, ~~that they are~~ of the medical marijuana patient and proof
5 that the applicant is the designee of the medical marijuana ~~license~~
6 ~~holder, must~~ patient. The applicant shall also submit proof that
7 ~~the caregiver~~ he or she is ~~age~~ eighteen (18) years of age or older,
8 and ~~must submit proof the caregiver is an~~ of his or her Oklahoma
9 ~~resident~~ residency. This ~~will~~ shall be the only criteria for a
10 caregiver license.

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

16 M. N. All applications for a medical license must be signed by
17 an Oklahoma Board-certified physician. There are no qualifying
18 conditions. A medical marijuana license must be recommended
19 according to the accepted standards a reasonable and prudent
20 physician would follow when recommending or approving any
21 medication. No physician may be unduly stigmatized or harassed for
22 signing a medical marijuana license application.

23 N. O. Counties and cities may enact medical marijuana
24 guidelines allowing medical marijuana license holders or caregivers

1 to exceed the state limits set forth in subsection A of this
2 section.

3 SECTION 6. AMENDATORY Section 3 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 3. A. There is hereby created the Oklahoma Medical
7 Marijuana Authority within the State Department of Health which
8 shall address issues related to the medical marijuana program in
9 Oklahoma including, but not limited to, the issuance of patient
10 licenses and medical marijuana business licenses, and the
11 dispensing, cultivating, processing, testing, transporting, storage,
12 research, and the use of and sale of medical marijuana pursuant to
13 this act.

14 B. The Department shall provide support staff to perform
15 designated duties of the Authority. The Department shall also
16 provide office space for meetings of the Authority.

17 C. The Department shall implement the provisions of this act
18 consistently with the voter-approved State Question No. 788,
19 Initiative Petition No. 412, subject to the provisions of this act.

20 D. The Department shall exercise its respective powers and
21 perform its respective duties and functions as specified in this act
22 and Title 63 of the Oklahoma Statutes including, but not limited to,
23 the following:
24

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

- 5 a. public health policy and public safety policy,
- 6 b. agronomic and horticultural best practices, and
- 7 c. medical and pharmacopoeia best practices;

8 2. Contract with third-party vendors and other governmental
9 entities in order to carry out the respective duties and functions
10 as specified in this act. ~~The Department shall not contract with~~
11 ~~any vendor providing commercial services to medical marijuana~~
12 ~~businesses either directly, through affiliates, or any joint venture~~
13 ~~or subsidiary;~~

14 3. Upon complaint or upon its own motion and upon a completed
15 investigation, levy fines as prescribed in this act and suspend or
16 revoke licenses pursuant to this act;

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

20 5. Apply for injunctive or declaratory relief to enforce the
21 provisions of this section and any rules promulgated pursuant to
22 this section;

23 6. Inspect and examine, with notice provided in accordance with
24 this act, all licensed premises of medical marijuana businesses,

1 research facilities and education facilities in which medical
2 marijuana is cultivated, manufactured, sold, stored, transported,
3 tested or distributed;

4 7. ~~Work~~ Upon action by the federal government by which the
5 production, sale and use of marijuana in Oklahoma does not violate
6 federal law, work with the Oklahoma State Banking Department and the
7 State Treasurer to develop good practices and standards for banking
8 and finance for medical marijuana businesses;

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

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

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

17 SECTION 7. AMENDATORY Section 6 of Enrolled House Bill
18 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
19 amended to read as follows:

20 Section 6. A. The State Department of Health shall address
21 issues related to the medical marijuana program in Oklahoma
22 including, but not limited to, monitoring and disciplinary actions
23 as they relate to the medical marijuana program.

24

1 B. 1. The Department or its designee may perform on-site
2 assessments of a licensee or applicant for any medical marijuana
3 business license issued pursuant to this act to determine compliance
4 with this act or submissions made pursuant to this section. The
5 Department may enter the licensed premises of a medical marijuana
6 business licensee or applicant to assess or monitor compliance.

7 2. Inspections shall be limited to twice per calendar year and
8 twenty-four (24) hours of notice shall be provided to a medical
9 marijuana business applicant or licensee prior to an on-site
10 assessment. However, additional inspections may occur when the
11 Department shows that an additional inspection is necessary due to a
12 violation of this act. Such inspection may be without notice if the
13 Department believes that such notice will result in the destruction
14 of evidence.

15 3. The Department may review relevant records of a licensed
16 medical marijuana business, licensed medical marijuana research
17 facility or licensed medical marijuana education facility, and may
18 require and conduct interviews with such persons or entities and
19 persons affiliated with such entities, for the purpose of
20 determining compliance with Department requirements and applicable
21 laws. However, prior to conducting any interviews with the medical
22 marijuana business, research facility or education facility, the
23 licensee shall be afforded sufficient time to secure legal
24

1 representation during such questioning if requested by the business
2 or facility or any of its agents or employees or contractors.

3 4. The Department shall refer complaints alleging criminal
4 activity that are made against a licensee to appropriate Oklahoma
5 state or local law enforcement authorities.

6 C. Disciplinary action may be taken against an applicant or
7 licensee under this act for not adhering to the law pursuant to the
8 terms, conditions and guidelines set forth in this act.

9 D. Disciplinary actions may include revocation, suspension or
10 denial of an application, license or final authorization and other
11 action deemed appropriate by the Department.

12 E. Disciplinary actions may be imposed upon a medical marijuana
13 business licensee for:

14 1. Failure to comply with or satisfy any provision of this
15 section;

16 2. Falsification or misrepresentation of any material or
17 information submitted to the Department;

18 3. Failing to allow or impeding a monitoring visit by
19 authorized representatives of the Department;

20 4. Failure to adhere to any acknowledgement, verification or
21 other representation made to the Department;

22 5. Failure to submit or disclose information required by this
23 section or otherwise requested by the Department;

24

1 6. Failure to correct any violation of this section cited as a
2 result of a review or audit of financial records or other materials;

3 7. Failure to comply with requested access by the Department to
4 the licensed premises or materials;

5 8. Failure to pay a required monetary penalty;

6 9. Diversion of medical marijuana or any medical marijuana
7 product, as determined by the Department;

8 10. Threatening or harming a patient, a medical practitioner or
9 an employee of the Department; and

10 11. Any other basis indicating a violation of the applicable
11 laws and regulations as identified by the Department.

12 F. Disciplinary actions against a licensee may include the
13 imposition of monetary penalties, which may be assessed by the
14 Department.

15 G. Penalties for sales by a medical marijuana business to
16 persons other than those allowed by law occurring within any two-
17 year time period may include an initial fine of One Thousand Dollars
18 (\$1,000.00) for a first violation and a fine of Five Thousand
19 Dollars (\$5,000.00) for any subsequent violation. The medical
20 marijuana business may be subject to a revocation of any license
21 granted pursuant to this act upon a showing that the violation was
22 willful or grossly negligent.

23 H. 1. First offense for intentional and impermissible
24 diversion of medical marijuana, concentrate, or products by a

1 patient or caregiver to an unauthorized person shall not be punished
2 under a criminal statute but may be subject to a fine of Two Hundred
3 Dollars (\$200.00).

4 2. The second offense for impermissible diversion of medical
5 marijuana, concentrate, or products by a patient or caregiver to an
6 unauthorized person shall not be punished under a criminal statute
7 but may be subject to a fine of not to exceed Five Hundred Dollars
8 (\$500.00) and may result in revocation of the license upon a showing
9 that the violation was willful or grossly negligent.

10 I. The following persons or entities may request a hearing to
11 contest an action or proposed action of the Department:

12 1. A medical marijuana business, research facility or education
13 facility licensee whose license has been summarily suspended or who
14 has received a notice of contemplated action to suspend or revoke a
15 license or take other disciplinary action; and

16 2. A patient or caregiver licensee whose license has been
17 summarily suspended or who has received notice of contemplated
18 action to suspend or revoke a license or take other disciplinary
19 action.

20 J. All hearings held pursuant to this section shall be in
21 accordance with the Oklahoma Administrative Procedures Act, Section
22 250 et seq. of Title 75 of the Oklahoma Statutes.

23

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1 SECTION 8. AMENDATORY Section 7 of Enrolled House Bill
2 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
3 amended to read as follows:

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

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

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

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

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

7 SECTION 9. AMENDATORY Section 14 of Enrolled House Bill
8 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
9 amended to read as follows:

10 Section 14. A. There is hereby created the medical marijuana
11 business license, which shall include the following categories:

- 12 1. Medical marijuana commercial grower;
- 13 2. Medical marijuana processor;
- 14 3. Medical marijuana dispensary;
- 15 4. Medical marijuana transporter; and
- 16 5. Medical marijuana testing laboratory.

17 B. The Oklahoma Medical Marijuana Authority, with the aid of
18 the Office of Management and Enterprise Services, shall develop a
19 website for medical marijuana business applications.

20 C. The Authority shall make available on its website ~~or the~~
21 ~~website of the Oklahoma Medical Marijuana Authority~~ in an easy-to-
22 find location, applications for a medical marijuana business.

23
24

1 D. The nonrefundable application fee for a medical marijuana
2 business license shall be Two Thousand Five Hundred Dollars
3 (\$2,500.00).

4 E. All applicants seeking licensure as a medical marijuana
5 business shall comply with the following general requirements:

6 1. All applications for licenses and registrations authorized
7 pursuant to this section shall be made upon forms prescribed by the
8 Authority;

9 2. Each application shall identify the city or county in which
10 the applicant seeks to obtain licensure as a medical marijuana
11 business;

12 3. Applicants shall submit a complete application to the
13 Department before the application may be accepted or considered;

14 4. All applications shall be complete and accurate in every
15 detail;

16 5. All applications shall include all attachments or
17 supplemental information required by the forms supplied by the
18 Authority;

19 6. All applications shall be accompanied by a full remittance
20 for the whole amount of the application fees. Application fees are
21 nonrefundable;

22 7. All applicants shall be approved for licensing review that,
23 at a minimum, meets the following criteria:

24 a. all applicants shall be age twenty-five (25) or older,

- 1 b. any applicant applying as an individual shall show
2 proof that the applicant is an Oklahoma resident
3 pursuant to paragraph 11 of this subsection,
4 c. any applicant applying as an entity shall show that
5 seventy-five percent (75%) of all members, managers,
6 executive officers, partners, board members or any
7 other form of business ownership are Oklahoma
8 residents pursuant to paragraph 11 of this subsection,
9 d. all applying individuals or entities shall be
10 registered to conduct business in the State of
11 Oklahoma,
12 e. all applicants shall disclose all ownership interests
13 pursuant to this act, and
14 f. applicants shall not have been convicted of a
15 nonviolent felony in the last two (2) years, and any
16 other felony conviction within the last five (5)
17 years, shall not be current inmates, or currently
18 incarcerated in a jail or corrections facility;

19 8. There shall be no limit to the number of medical marijuana
20 business licenses or categories that an individual or entity can
21 apply for or receive, although each application and each category
22 shall require a separate application and application fee. A
23 commercial grower, processor and dispensary, or any combination
24

1 thereof, are authorized to share the same address or physical
2 location, subject to the restrictions set forth in this act;

3 9. All applicants for a medical marijuana business license,
4 research facility license or education facility license authorized
5 by this act shall undergo an Oklahoma criminal history background
6 check conducted by the Oklahoma State Bureau of Investigation (OSBI)
7 within thirty (30) days prior to the application for the license,
8 including:

- 9 a. individual applicants applying on their own behalf,
- 10 b. individuals applying on behalf of an entity,
- 11 c. all principal officers of an entity, and
- 12 d. all owners of an entity as defined by this act;

13 10. All applicable fees charged by OSBI are the responsibility
14 of the applicant and shall not be higher than fees charged to any
15 other person or industry for such background checks;

16 11. In order to be considered an Oklahoma resident for purposes
17 of a medical marijuana business application, all applicants shall
18 provide proof of Oklahoma residency for at least two (2) years
19 immediately preceding the date of application or five (5) years of
20 continuous Oklahoma residency during the preceding twenty-five (25)
21 years immediately preceding the date of application. Sufficient
22 documentation of proof of residency shall include a combination of
23 the following:

- 24 a. an unexpired Oklahoma-issued driver license,

- b. an Oklahoma voter identification card,
- c. a utility bill preceding the date of application, excluding cellular telephone and Internet bills,
- d. a residential property deed to property in the State of Oklahoma, and
- e. a rental agreement preceding the date of application for residential property located in the State of Oklahoma.

Applicants that were issued a medical marijuana business license prior to the enactment of the Oklahoma Medical Marijuana and Patient Protection Act are hereby exempt from the two-year or five-year Oklahoma residency requirement mentioned above;

12. All license applicants shall be required to submit a registration with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as provided in Sections ~~2-202~~ 2-302 through ~~2-204~~ 2-304 of Title 63 of the Oklahoma Statutes;

13. All applicants shall establish their identity through submission of a color copy or digital image of one of the following unexpired documents:

- a. front and back of an Oklahoma driver license,
- b. front and back of an Oklahoma identification card,
- c. a United States passport or other photo identification issued by the United States government,

1 d. certified copy of the applicant's birth certificate
2 for minor applicants who do not possess a document
3 listed in this section, or

4 e. a tribal identification card approved for
5 identification purposes by the Oklahoma Department of
6 Public Safety; and

7 14. All applicants shall submit an applicant photograph.

8 F. The Authority shall review the medical marijuana business
9 application, approve or reject the application and mail the
10 approval, rejection or status-update letter to the applicant within
11 ninety (90) business days of receipt of the application.

12 G. 1. The Authority shall review the medical marijuana
13 business applications and conduct all investigations, inspections
14 and interviews before approving the application.

15 2. Approved applicants shall be issued a medical marijuana
16 business license for the specific category applied under which shall
17 act as proof of their approved status. Rejection letters shall
18 provide a reason for the rejection. Applications may only be
19 rejected based on the applicant not meeting the standards set forth
20 in the provisions of this section, improper completion of the
21 application, or for a reason provided for in this act. If an
22 application is rejected for failure to provide required information,
23 the applicant shall have thirty (30) days to submit the required
24

1 information for reconsideration. No additional application fee
2 shall be charged for such reconsideration.

3 3. Status-update letters shall provide a reason for delay in
4 either approval or rejection should a situation arise in which an
5 application was submitted properly, but a delay in processing the
6 application occurred.

7 4. Approval, rejection or status-update letters shall be sent
8 to the applicant in the same method the application was submitted to
9 the Department.

10 H. A license provided by this act or by Section 421, 422, 423
11 or 425 of Title 63 of the Oklahoma Statutes shall not be issued
12 until all relevant local licenses and permits have been issued by
13 the municipality, including but not limited to an occupancy permit
14 or certificate of compliance.

15 I. In the event that an applicant has not received the
16 necessary permits, certificates or licenses from a municipality, but
17 the applicant has fulfilled all other obligations required by this
18 act, the Authority shall grant a conditional license. A conditional
19 license shall remain valid for a period of one (1) year or until the
20 applicant obtains the necessary local permits, certificates or
21 licenses. An applicant shall not transfer any medical marijuana,
22 concentrate or products to a medical marijuana business, patient or
23 caregiver until approval is received from the Authority.

24

1 J. A medical marijuana business license shall not be issued to
2 or held by:

3 1. A person until all required fees have been paid;

4 2. A person who has been convicted of a nonviolent felony
5 within two (2) years of the date of application, or within five (5)
6 years for any other felony;

7 3. A corporation, if the criminal history of any of its
8 officers, directors or stockholders indicates that the officer,
9 director or stockholder has been convicted of a nonviolent felony
10 within two (2) years of the date of application, or within five (5)
11 years for any other felony;

12 4. A person under twenty-five (25) years of age;

13 5. A person licensed pursuant to this section who, during a
14 period of licensure, or who, at the time of application, has failed
15 to:

16 a. file taxes, interest or penalties due related to a
17 medical marijuana business, or

18 b. pay taxes, interest or penalties due related to a
19 medical marijuana business;

20 6. A sheriff, deputy sheriff, police officer or prosecuting
21 officer, or an officer or employee of the Authority or municipality;

22 or

23 7. A person whose authority to be a caregiver as defined in
24 this act has been revoked by the Department;~~or~~

1 ~~8. A publicly traded company.~~

2 K. In investigating the qualifications of an applicant or a
3 licensee, the Department, Authority and municipalities may have
4 access to criminal history record information furnished by a
5 criminal justice agency subject to any restrictions imposed by such
6 an agency. In the event the Department considers the criminal
7 history record of the applicant, the Department shall also consider
8 any information provided by the applicant regarding such criminal
9 history record, including but not limited to evidence of
10 rehabilitation, character references and educational achievements,
11 especially those items pertaining to the period of time between the
12 last criminal conviction of the applicant and the consideration of
13 the application for a state license.

14 L. The failure of an applicant to provide the requested
15 information by the Authority deadline may be grounds for denial of
16 the application.

17 M. All applicants shall submit information to the Department
18 and Authority in a full, faithful, truthful and fair manner. The
19 Department and Authority may recommend denial of an application
20 where the applicant made misstatements, omissions,
21 misrepresentations or untruths in the application or in connection
22 with the background investigation of the applicant. This type of
23 conduct may be considered as the basis for additional administrative
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1 action against the applicant. Typos and scrivener errors shall not
2 be grounds for denial.

3 N. A licensed medical marijuana business premises shall be
4 subject to and responsible for compliance with applicable provisions
5 for medical marijuana business facilities as described in the most
6 recent versions of the Oklahoma Uniform Building Code, the
7 International Building Code and the International Fire Code, unless
8 granted an exemption by the Authority or municipality.

9 O. All medical marijuana business licensees shall pay the
10 relevant licensure fees prior to receiving licensure to operate a
11 medical marijuana business, as defined in this act for each class of
12 license.

13 SECTION 10. AMENDATORY Section 21 of Enrolled House Bill
14 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
15 amended to read as follows:

16 Section 21. A. A medical marijuana business shall not engage
17 in advertising that is deceptive, false or misleading.

18 B. ~~A medical marijuana business shall not include in any form~~
19 ~~of advertising or signage any content that specifically targets~~
20 ~~individuals under the age of eighteen (18), including but not~~
21 ~~limited to cartoon characters or similar images~~ Medical marijuana
22 advertising shall not contain any statement or illustration that:

23 1. Promotes overconsumption;
24

1 2. Represents that the use of marijuana has curative or
2 therapeutic effects; or

3 3. Depicts a child or other person under legal age to consume
4 marijuana, or includes:

5 a. objects such as toys or cartoon or other characters,
6 which suggest the presence of a child, or any other
7 depiction designed in any manner to be especially
8 appealing to children or other persons under legal age
9 to consume marijuana, or

10 b. any manner or design that would be especially
11 appealing to children or other persons under eighteen
12 (18) years of age.

13 SECTION 11. AMENDATORY Section 23 of Enrolled House Bill
14 No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is
15 amended to read as follows:

16 Section 23. A. The State Commissioner of Health, the Oklahoma
17 Tax Commission, ~~the Banking Board,~~ the State Treasurer, the
18 Secretary of State and the Director of the Office of Management and
19 Enterprise Services shall promulgate rules to implement the
20 provisions of this act.

21 B. The Food Safety Standards Board, in addition to the powers
22 and duties granted in Section 423 of Title 63 of the Oklahoma
23 Statutes, may recommend to the State Commissioner of Health rules
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1 relating to all aspects of the cultivation and manufacture of
2 medical marijuana products.

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