

An Act

ENROLLED HOUSE
BILL NO. 2601

By: Fetgatter of the House

and

McCortney of the Senate

An Act relating to medical marijuana; amending 21 O.S. 2011, Section 1247, as last amended by Section 1, Chapter 110, O.S.L. 2017 (21 O.S. Supp. 2018, Section 1247), which relates to prohibitions on smoking; prohibiting marijuana smoking and vaping in public places; providing exception under certain circumstances; amending 63 O.S. 2011, Section 1-1523, as last amended by Section 2, Chapter 110, O.S.L. 2017 (63 O.S. Supp. 2018, Section 1-1523), which relates to prohibitions on smoking; prohibiting marijuana smoking and vaping in public places; providing an exception; amending 63 O.S. 2011, Section 1-1525, as amended by Section 3, Chapter 369, O.S.L. 2017 (63 O.S. Supp. 2018, Section 1-1525), 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; authorizing the Department to determine procedures for extending and renewing licenses and setting fee; amending Sections 3, 6, 7, 14, 21 and 23 of Enrolled House Bill No. 2612 of the 1st Session of the 57th

Oklahoma Legislature, which relate to the Oklahoma Medical Marijuana and Patient Protection Act; removing restriction that prohibits the State Department of Health from contracting with certain vendors; directing the Department to work with the Oklahoma State Banking Department and State Treasurer to develop banking and finance standards upon certain action by the federal government; clarifying scope of certain disciplinary action; deleting mandate that prohibits personally identifiable information from being stored; updating and deleting duplicative reference to Oklahoma Medical Marijuana Authority; providing exception to certain residency requirement; correcting certain statutory reference; clarifying time frame for reviewing business applications; removing licensing restriction for certain companies; specifying advertising restrictions for medical marijuana businesses; deleting the Banking Board from requirement to promulgate rules; and providing for noncodification.

SUBJECT: Marijuana

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

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

Section 1247. A. The possession of lighted tobacco in any form is a public nuisance and dangerous to public health and is hereby prohibited when such possession is in any indoor place used by or open to the public, all parts of a zoo to which the public may be admitted, whether indoors or outdoors, public transportation, or any indoor workplace, except where specifically allowed by law. Commercial airport operators may prohibit the use of lighted tobacco or lighted marijuana or the vaping of marijuana in any area that is open to or used by the public whether located indoors or outdoors, provided that the outdoor area is within one hundred seventy-five (175) feet from an entrance.

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

B. All buildings and other properties, or portions thereof, owned or operated by this state shall be designated as nonsmoking. The tobacco smoking provisions of this subsection shall not apply to veterans centers operated by this state pursuant to the provisions of Section 221 et seq. of Title 72 of the Oklahoma Statutes, which shall be designated nonsmoking effective January 1, 2015, at which time veterans centers may establish outdoor designated smoking areas for resident veterans only. Smoking tobacco shall only be allowed in designated outdoor smoking areas.

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

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

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

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

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

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

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

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

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

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

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

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

8. Medical research or treatment centers, if tobacco smoking is integral to the research or treatment. Furthermore, the

restrictions on smoking or vaping of marijuana provided in this section shall not apply to medical research or treatment centers, if marijuana smoking or vaping is integral to the research or treatment;

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

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

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

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

J. Notwithstanding any other provision of this section, until March 1, 2006, restaurants may have designated tobacco smoking and

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

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

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

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

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

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

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

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

Section 1-1523. A. Except as specifically provided in the Smoking in Public Places and Indoor Workplaces Act, no person shall smoke tobacco or marijuana or vape marijuana in a public place, in any part of a zoo to which the public may be admitted, whether indoors or outdoors, in an indoor workplace, in any vehicle providing public transportation, at a meeting of a public body, in a

nursing facility licensed pursuant to the Nursing Home Care Act, or in a child care facility licensed pursuant to the Oklahoma Child Care Facilities Licensing Act. A nursing facility licensed pursuant to the Nursing Home Care Act may designate tobacco smoking rooms for residents and their guests. Such rooms shall be fully enclosed, directly exhausted to the outside, and shall be under negative air pressure so that no tobacco smoke can escape when a door is opened and no air is recirculated to nonsmoking areas of the building. Commercial airport operators may prohibit the use of lighted tobacco or lighted marijuana or the vaping of marijuana in any area that is open to or used by the public whether located indoors or outdoors, provided that the outdoor area is within one hundred seventy-five (175) feet from an entrance.

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

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

3. A technology center school district or college or university may designate tobacco smoking areas outside the educational facility buildings for the use of adults during certain activities or functions, including, but not limited to, athletic contests.

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

C. Nothing in this section shall be construed to prohibit educational facilities from having more restrictive policies regarding tobacco or marijuana smoking or marijuana vaping and the

use of other marijuana or tobacco products in the buildings or on the grounds of the facility.

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

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

F. Veterans centers operated by this state pursuant to the provisions of Section 221 et seq. of Title 72 of the Oklahoma Statutes shall be designated nonsmoking effective January 1, 2015, at which time veterans centers may establish outdoor designated smoking areas for resident veterans only. Smoking tobacco shall only be allowed in designated outdoor smoking areas.

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

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

1. Stand-alone bars, stand-alone taverns or cigar bars;
2. The room or rooms where licensed charitable bingo games are being operated, but only during the hours of operation of such games;
3. Up to twenty-five percent (25%) of the guest rooms at a hotel or other lodging establishment;
4. Retail tobacco stores predominantly engaged in the sale of tobacco products and accessories and in which the sale of other products is merely incidental and in which no food or beverage is sold or served for consumption on the premises;
5. Workplaces where only the owner or operator of the workplace, or the immediate family of the owner or operator, performs any work in the workplace, and the workplace has only incidental public access;
6. Workplaces occupied exclusively by one or more tobacco smokers, if the workplace has only incidental public access. "Incidental public access" means that a place of business has only an occasional person, who is not an employee, present at the business to transact business or make a delivery. It does not include businesses that depend on walk-in customers for any part of their business;
7. Private offices occupied exclusively by one or more smokers;
8. Workplaces within private residences, except that smoking tobacco or marijuana or vaping marijuana shall not be allowed inside any private residence that is used as a licensed child care facility during hours of operation;
9. A facility operated by a post or organization of past or present members of the Armed Forces of the United States which is exempt from taxation pursuant to Sections 501(c)(8), 501(c)(10) or 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(8), 501(c)(10) or 501(c)(19), when such facility is utilized exclusively by its members and their families and for the conduct of post or organization nonprofit operations except during an event or activity which is open to the public;
10. Any outdoor seating area of a restaurant; provided, tobacco or marijuana smoking or vaping marijuana shall not be allowed within

fifteen (15) feet of any exterior public doorway or any air intake of a restaurant; and

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

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

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

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

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

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

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

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

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

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

1. Consume marijuana legally;
 2. Legally possess up to three (3) ounces of marijuana on their person;
 3. Legally possess six ~~(6)~~ mature marijuana plants;
 4. Legally possess six ~~(6)~~ seedling plants;
 5. Legally possess one (1) ounce of concentrated marijuana;
 6. Legally possess seventy-two (72) ounces of edible marijuana;
- and
7. Legally possess up to eight (8) ounces of marijuana in their residence.

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

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

D. The ~~Oklahoma~~ State Department of Health shall, within thirty (30) days of passage of this initiative, make available, ~~on their~~

its website, in an easy-to-find location, an application for a medical marijuana license. The license will shall be good for two (2) years, and the application fee will shall be One Hundred Dollars (\$100.00), or Twenty Dollars (\$20.00) for individuals on Medicaid, Medicare, or SoonerCare. The methods of payment will shall be provided on the website of the Department.

E. A short-term medical marijuana license application shall also be made available on the website of the State Department of Health. A short-term medical marijuana license shall be granted to any applicant who can meet the requirements for a two-year medical marijuana license, but whose physician recommendation for medical marijuana is only valid for sixty (60) days. Short-term medical marijuana licenses shall be issued for sixty (60) days. The fee for a short-term medical marijuana license and the procedure for extending or renewing the license shall be determined by the Department.

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

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

~~G. H.~~ The ~~Oklahoma~~ State Department of Health shall review the medical marijuana application, ~~approve/reject~~ approve or reject the application, and mail the ~~applicant's~~ approval or rejection letter ~~(stating reasons for rejection)~~ stating any reasons for rejection to the applicant within fourteen (14) business days of receipt of the application. Approved applicants will shall be issued a medical marijuana license which will shall act as proof of their approved status. Applications may only be rejected based on the applicant

not meeting stated criteria or improper completion of the application.

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

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

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

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

~~K.~~ L. A caregiver license ~~will~~ shall be made available for qualified caregivers of a medical marijuana license holder who is homebound. The caregiver license ~~will~~ shall give the caregiver the same rights as the medical marijuana license holder. ~~Applicants~~ An applicant for a caregiver license will shall submit proof of the medical marijuana license holder's license status and homebound status, that they are of the medical marijuana patient and proof that the applicant is the designee of the medical marijuana license holder, must patient. The applicant shall also submit proof that the caregiver he or she is age eighteen (18) years of age or older, and must submit proof the caregiver is an of his or her Oklahoma resident residency. This will shall be the only criteria for a caregiver license.

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

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

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

SECTION 6. AMENDATORY Section 3 of Enrolled House Bill No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

8. Establish internal control procedures for licenses including 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. AMENDATORY Section 6 of Enrolled House Bill No. 2612 of the 1st Session of the 57th Oklahoma Legislature, is amended to read as follows:

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

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

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

3. The Department may review relevant records of a licensed medical marijuana business, licensed medical marijuana research facility or licensed medical marijuana education facility, and may require and conduct interviews with such persons or entities and persons affiliated with such entities, for the purpose of determining compliance with Department requirements and applicable laws. However, prior to conducting any interviews with the medical marijuana business, research facility or education facility, the licensee shall be afforded sufficient time to secure legal representation during such questioning if requested by the business or facility or any of its agents or employees or contractors.

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

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

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

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

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

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

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

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

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

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

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

8. Failure to pay a required monetary penalty;

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

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

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

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

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

H. 1. First offense for intentional and impermissible diversion of medical marijuana, concentrate, or products by a patient or caregiver to an unauthorized person shall not be punished under a criminal statute but may be subject to a fine of Two Hundred Dollars (\$200.00).

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Medical marijuana commercial grower;

2. Medical marijuana processor;
3. Medical marijuana dispensary;
4. Medical marijuana transporter; and
5. Medical marijuana testing laboratory.

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

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

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

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

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

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

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

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

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

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

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

- a. all applicants shall be age twenty-five (25) or older,
- b. any applicant applying as an individual shall show proof that the applicant is an Oklahoma resident pursuant to paragraph 11 of this subsection,
- c. any applicant applying as an entity shall show that seventy-five percent (75%) of all members, managers, executive officers, partners, board members or any other form of business ownership are Oklahoma residents pursuant to paragraph 11 of this subsection,
- d. all applying individuals or entities shall be registered to conduct business in the State of Oklahoma,
- e. all applicants shall disclose all ownership interests pursuant to this act, and
- f. applicants shall not have been convicted of a nonviolent felony in the last two (2) years, and any other felony conviction within the last five (5) years, shall not be current inmates, or currently incarcerated in a jail or corrections facility;

8. There shall be no limit to the number of medical marijuana business licenses or categories that an individual or entity can apply for or receive, although each application and each category shall require a separate application and application fee. A commercial grower, processor and dispensary, or any combination thereof, are authorized to share the same address or physical location, subject to the restrictions set forth in this act;

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

- a. individual applicants applying on their own behalf,

- b. individuals applying on behalf of an entity,
- c. all principal officers of an entity, and
- d. all owners of an entity as defined by this act;

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

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

- 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,
- d. certified copy of the applicant's birth certificate for minor applicants who do not possess a document listed in this section, or
- e. a tribal identification card approved for identification purposes by the Oklahoma Department of Public Safety; and

14. All applicants shall submit an applicant photograph.

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

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

2. Approved applicants shall be issued a medical marijuana business license for the specific category applied under which shall act as proof of their approved status. Rejection letters shall provide a reason for the rejection. Applications may only be rejected based on the applicant not meeting the standards set forth in the provisions of this section, improper completion of the application, or for a reason provided for in this act. If an application is rejected for failure to provide required information, the applicant shall have thirty (30) days to submit the required information for reconsideration. No additional application fee shall be charged for such reconsideration.

3. Status-update letters shall provide a reason for delay in either approval or rejection should a situation arise in which an

application was submitted properly, but a delay in processing the application occurred.

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

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

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

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

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

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

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

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

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

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

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

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

~~8. A publicly traded company.~~

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

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

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

N. A licensed medical marijuana business premises shall be subject to and responsible for compliance with applicable provisions for medical marijuana business facilities as described in the most

recent versions of the Oklahoma Uniform Building Code, the International Building Code and the International Fire Code, unless granted an exemption by the Authority or municipality.

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

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

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

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

1. Promotes overconsumption;

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

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

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

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

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

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

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

Passed the House of Representatives the 20th day of May, 2019.

Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of May, 2019.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____