

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 2989

By: Russ

AS INTRODUCED

An Act relating to public health and safety; amending 63 O.S. 2021, Section 422, which relates to license applications for medical marijuana growing; prescribing procedures with respect to approval of commercial grow licenses; providing for identification of real property; requiring submission of certain question to voters; requiring majority approval for issuance of license; prescribing procedures for submission of question; prescribing wording for ballot titles; prescribing procedures for communication of election outcomes to the State Department of Health; providing for effect of failure of county voters to approve application; prohibiting applications during certain time period; requiring State Department of Health to maintain registry for purposes of implementing requirements related to election outcomes; and providing an effective date.

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 422, is amended to read as follows:

Section 422. A. The State Department of Health shall, within thirty (30) days of passage of this initiative, make available on its website in an easy-to-find location an application for a commercial grower license. The application fee shall be Two

Thousand Five Hundred Dollars (\$2,500.00). A method of payment shall be provided on the website of the Department. The Subject to the provisions of subsections F through O of this section, the State Department of Health shall have ninety (90) days to review the application; approve, reject or deny the application; and mail the approval, rejection or denial letter stating the reasons for the rejection or denial to the applicant.

B. The State Department of Health shall approve all applications which meet the following criteria:

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

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

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

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

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

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

7. All applicants shall be required to prove that any county in which real property owned by or leased to the applicant for a

commercial grower license has approved issuance of the license as prescribed pursuant to the provisions of subsections F through O of this section.

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

C. A licensed commercial grower may sell marijuana to a licensed dispensary or a licensed processor. Further, sales by a licensed commercial grower shall be considered wholesale sales and shall not be subject to taxation. Under no circumstances may a licensed commercial grower sell marijuana directly to a licensed medical marijuana patient or licensed caregiver. A licensed commercial grower may only sell at the wholesale level to a licensed dispensary, a licensed grower or a licensed processor. If the federal government lifts restrictions on buying and selling marijuana between states, then a licensed commercial grower would be allowed to sell and buy marijuana wholesale from, or to, an out-of-state wholesale provider. A licensed commercial grower shall be required to complete a monthly yield and sales report to the State Department of Health. This report shall be due on the fifteenth of each month and provide reporting on the previous month. This report shall detail the amount of marijuana harvested in pounds, the amount

of drying or dried marijuana on hand, the amount of marijuana sold to licensed processors in pounds, the amount of waste in pounds, and the amount of marijuana sold to licensed dispensaries in pounds. Additionally, this report shall show total wholesale sales in dollars. The State Department of Health shall have oversight and auditing responsibilities to ensure that all marijuana being grown by licensed commercial growers is accounted for.

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

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

F. Prior to the time an application otherwise authorized by this section is filed with the State Department of Health, an individual or entity seeking a commercial grower license shall make application to the county or counties in which any real property owned by or leased to the applicant is located and upon which

commercial marijuana growing as authorized by this section is to occur. The provisions of this subsection and subsections G through O of this section shall be applicable to real property located in either unincorporated areas or incorporated areas of the county. The application shall be on such form as prescribed by the State Department of Health for such purpose.

G. All applications for approval of a commercial grow license by the county shall be submitted not later than June 30 each year. The question for approval of the license shall only be submitted for a vote at the General Election held in each even-numbered year.

H. The board of county commissioners of the county or counties to which an application for approval of a commercial grower license is submitted pursuant to the provisions of this section shall submit a question to the voters of the county or counties in which the real property, which shall be clearly identified in the application, is located. If an application for a single license describes a parcel of real property located in more than one county, the application shall be submitted in each and every county in which the parcel is located and the boards of county commissioners of the affected counties shall coordinate their actions so that the vote for approval of the license application occurs on the same date in each county with respect to such license application.

I. If a parcel of real property identified in a commercial grower license application is located in more than one county, the

license may only be issued by a county the voters of which have approved the issuance of the license and only to the extent of growing operations for marijuana on the real property located within the boundary of the county the voters of which have approved the issuance of the license.

J. The question for approval of the commercial grower license shall be submitted in substantially the following form:

SHALL A COMMERCIAL GROWER LICENSE FOR MARIJUANA BE ISSUED TO [INSERT LEGAL NAME OF APPLICANT] WITH RESPECT TO THE FOLLOWING DESCRIBED REAL PROPERTY LOCATED IN [INSERT COUNTY NAME AND PHYSICAL ADDRESS OR OTHER APPLICABLE DESCRIPTION, WHETHER LOT OR BLOCK OR METES AND BOUNDS OR OTHER DESCRIPTION BY WHICH A PERSON OF REASONABLE UNDERSTANDING COULD IDENTIFY THE LOCATION OF THE PROPERTY]?

YES - FOR THE APPROVAL OF THE LICENSE _____

NO - AGAINST THE APPROVAL OF THE LICENSE _____

K. A majority of those persons voting on the question submitted pursuant to subsection J of this section shall be required in order for the license application to be approved.

L. If the voters of the applicable county or counties approve the issuance of the license, the outcome of the vote shall be certified by the county election board of the affected county or counties and a certified copy of the outcome shall be attached to the license application submitted to the State Department of Health

which shall then review the application pursuant to the requirements of law and either approve or deny the application.

M. If the voters of the applicable county or counties do not approve the issuance of the license, the outcome of the election shall be certified by the county election board of the applicable county or counties and such certified result shall be provided to the license applicant and transmitted to the State Department of Health, by certified mail with return receipt requested, not later than seven (7) days after the election result has been certified by the applicable county election board.

N. An applicant for a commercial grower license that is denied approval by a county or counties pursuant to the provisions of this section shall not make application to the county in which any real property described in a ballot as prescribed by subsection J of this section was contained for a period of five (5) years from the date of such election. No application for a commercial grower license shall be submitted by any applicant in a county that has denied a commercial grower license pursuant to the voting procedures prescribed by this section for a period of five (5) years from the date of the election.

O. The State Department of Health shall maintain a registry or record of any county the voters of which did not approve a commercial grower license application pursuant to the provisions of this section in order to prevent the issuance of a license to any

applicant for a period of five (5) years from the date of the
election with respect to any real property located in a county the
voters of which did not approve the issuance of a license.

SECTION 2. This act shall become effective November 1, 2022.

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