

An Act

ENROLLED SENATE
BILL NO. 1367

By: Paxton and Pederson of the
Senate

and

Hardin (David) of the House

An Act relating to medical marijuana; amending 63 O.S. 2021, Section 427.6, as last amended by Section 11, Chapter 553, O.S.L. 2021, which relates to the Oklahoma Medical Marijuana and Patient Protection Act; updating name of entity; modifying elements of certain penalties; increasing penalty amounts; providing administrative fines for certain unlawful acts; authorizing certain discretion and enforcement; providing for the revocation of licenses under certain circumstances; removing construing provision; and providing an effective date.

SUBJECT: Medical marijuana

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.6, as last amended by Section 11, Chapter 553, O.S.L. 2021, is amended to read as follows:

Section 427.6. A. The ~~State Department of Health Oklahoma Medical Marijuana Authority~~ shall address issues related to the medical marijuana program in ~~Oklahoma~~ this state including, but not limited to, monitoring and disciplinary actions as they relate to the medical marijuana program.

B. 1. The Department Authority or its designee may perform on-site inspections or investigations of a licensee or applicant for any medical marijuana business license, research facility, education facility or waste disposal facility to determine compliance with applicable laws, rules and regulations or submissions made pursuant to this section. The Department Authority may enter the licensed premises of a medical marijuana business, research facility, education facility or waste disposal facility licensee or applicant to assess or monitor compliance or ensure qualifications for licensure.

2. Post-licensure inspections shall be limited to twice per calendar year. However, investigations and additional inspections may occur when the Department Authority believes an investigation or additional inspection is necessary due to a possible violation of applicable laws, rules or regulations. The State Commissioner of Health may adopt rules imposing penalties including, but not limited to, monetary fines and suspension or revocation of licensure for failure to allow the Authority reasonable access to the licensed premises for purposes of conducting an inspection.

3. The Department Authority may review relevant records of a licensed medical marijuana business, licensed medical marijuana research facility, licensed medical marijuana education facility or licensed medical marijuana waste disposal 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 Authority requirements and applicable laws, rules and regulations.

4. The Department Authority may 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 for not adhering to applicable laws pursuant to the terms, conditions and guidelines set forth in the Oklahoma Medical Marijuana and Patient Protection 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 Authority.

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

1. Failure to comply with or satisfy any provision of applicable laws, rules or regulations;

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

3. Failing to allow or impeding entry by authorized representatives of the Department Authority;

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

5. Failure to submit or disclose information required by applicable laws, rules or regulations or otherwise requested by the Department Authority;

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 Authority 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 Authority;

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

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

F. Disciplinary actions against a licensee may include the imposition of monetary penalties, which may be assessed by the Department Authority. The Department Authority may suspend or revoke a license for failure to pay any monetary penalty lawfully assessed by the Department Authority against a licensee.

G. Penalties for sales ~~or,~~ purchases or transfers for value of medical marijuana by a medical marijuana business or employees or agents of the medical marijuana business to persons other than those allowed by law occurring within any ~~two-year~~ one-year time period may include an initial fine of ~~One Thousand Dollars (\$1,000.00)~~ Five Thousand Dollars (\$5,000.00) for a first violation and a fine of Five Thousand Dollars (\$5,000.00) Fifteen Thousand Dollars (\$15,000.00) for any subsequent violation. Penalties for grossly inaccurate or fraudulent reporting occurring within any two-year time period may include an initial administrative fine of Five Thousand Dollars (\$5,000.00) for a first violation and a an administrative fine of Ten Thousand Dollars (\$10,000.00) for any subsequent violation. The medical marijuana business ~~may shall~~ be subject to a revocation of any license granted pursuant to the Oklahoma Medical Marijuana and Patient Protection Act upon a ~~showing that the violation was willful or second incident of grossly negligent inaccurate or fraudulent reporting in a ten-year period by~~ the medical marijuana business or any employee or agent thereof.

H. 1. ~~First~~ In addition to any other penalties prescribed by law, a first offense for intentional and impermissible diversion of medical marijuana, medical marijuana concentrate, or medical marijuana products for value by a patient or caregiver to an unauthorized person shall ~~not be punished under a criminal statute but may be subject to a~~ an administrative fine of ~~Two Hundred Dollars (\$200.00)~~ not less than Four Hundred Dollars (\$400.00). The Authority shall have the authority to enforce the provisions of this subsection.

2. ~~The~~ In addition to any other penalties prescribed by law, an additional incident resulting in a second offense for impermissible diversion of medical marijuana, medical marijuana concentrate, or medical marijuana products by a patient or caregiver to an unauthorized person for value shall ~~not be punished under a criminal statute but may be subject to a~~ an administrative fine of ~~not to exceed Five Hundred Dollars (\$500.00)~~ not less than One Thousand

Dollars (\$1,000.00), and may shall result in revocation of the license upon a showing that the violation was willful or grossly negligent or licenses of the person.

3. Any person who shares less than three (3) grams of medical marijuana with an unauthorized person, without the transfer being for value or other consideration, shall not be subject to criminal prosecution but shall be subject to an administrative fine of Four Hundred Dollars (\$400.00).

I. The intentional diversion of medical marijuana, medical marijuana concentrate or medical marijuana products by a licensed medical marijuana patient or caregiver, medical marijuana business or employee of a medical marijuana business to an unauthorized minor person who the licensed medical marijuana patient or caregiver, medical marijuana business or employee of a medical marijuana business knew or reasonably should have known to be a minor person shall be subject to a cite and release citation and, upon a finding of guilt or a plea of no contest, a an administrative fine of Two Thousand Five Hundred Dollars (\$2,500.00). For an additional incident resulting in a second or subsequent offense, the licensed medical marijuana patient or caregiver, medical marijuana business or employee of a medical marijuana business shall be subject to a cite and release citation and, upon a finding of guilt or a plea of no contest, a fine of Five Thousand Dollars (\$5,000.00) and automatic termination revocation of the medical marijuana license.

J. Nothing in this section shall be construed to prevent the criminal prosecution, after the presentation of evidence and a finding beyond a reasonable doubt, of a licensed medical marijuana patient or caregiver, medical marijuana business or employee of a medical marijuana business who has diverted medical marijuana, medical marijuana concentrate or medical marijuana products to an unauthorized person with the intent or knowledge that the unauthorized person was to engage in the distribution or trafficking of medical marijuana, medical marijuana concentrate or medical marijuana products.

K. In addition to any other remedies provided for by law, the Department Authority, pursuant to its rules and regulations, may issue a written order to any licensee the Department Authority has reason to believe has violated Sections 420 through 426.1 of this

title, the Oklahoma Medical Marijuana and Patient Protection Act, the Oklahoma Medical Marijuana Waste Management Act, or any rules promulgated by the State Commissioner of Health and to whom the Department Authority has served, not less than thirty (30) days previously, a written notice of violation of such statutes or rules.

1. The written order shall state with specificity the nature of the violation. The Department Authority may impose any disciplinary action authorized under the provisions of this section including, but not limited to, the assessment of monetary penalties.

2. Any order issued pursuant to the provisions of this section shall become a final order unless, not more than thirty (30) days after the order is served to the licensee, the licensee requests an administrative hearing in accordance with the rules and regulations of the Department Authority. Upon such request, the Department Authority shall promptly initiate administrative proceedings.

L. K. Whenever the Department Authority finds that an emergency exists requiring immediate action in order to protect the health or welfare of the public, the Department Authority may issue an order, without providing notice or hearing, stating the existence of said emergency and requiring that action be taken as the Department Authority deems necessary to meet the emergency. Such action may include, but is not limited to, ordering the licensee to immediately cease and desist operations by the licensee. The order shall be effective immediately upon issuance. Any person to whom the order is directed shall comply immediately with the provisions of the order. The Department Authority may assess a penalty not to exceed Ten Thousand Dollars (\$10,000.00) per day of noncompliance with the order. In assessing such a penalty, the Department Authority shall consider the seriousness of the violation and any efforts to comply with applicable requirements. Upon application to the Department Authority, the licensee shall be offered a hearing within ten (10) days of the issuance of the order.

M. L. All hearings held pursuant to this section shall be in accordance with the Oklahoma Administrative Procedures Act.

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

Passed the Senate the 5th day of May, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of April, 2022.

Presiding Officer of the House
of Representatives

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: _____