

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 SENATE BILL 1718

By: Merrick

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5
6 AS INTRODUCED

7 An Act relating to medical marijuana licenses;
8 amending 63 O.S. 2021, Section 422, which relates to
9 medical marijuana commercial grower licenses;
10 requiring after certain date that all current
11 application approvals for a license to be suspended
12 until certain conditions are met; amending 63 O.S.
13 2021, Section 427.14, as last amended by Section 8,
14 Chapter 584, O.S.L. 2021, which relates to medical
15 marijuana business license; providing exception for
16 commercial grower operations; updating statutory
17 language; and providing an effective date.

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

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

21 Section 422. A. The State Department of Health shall, within
22 thirty (30) days of passage of this initiative, make available on
23 its website in an easy-to-find location an application for a
24 commercial grower license. The application fee shall be Two
25 Thousand Five Hundred Dollars (\$2,500.00). A method of payment
26 shall be provided on the website of the Department. The State
27 Department of Health shall have ninety (90) days to review the
28 application; approve, reject or deny the application; and mail the

1 approval, rejection or denial letter stating the reasons for the
2 rejection or denial to the applicant.

3 B. After the inspections and financial audits required in
4 paragraph F of this section, The State Department of Health shall
5 approve all applications which meet the following criteria:

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

8 2. The applicant, if applying as an individual, must show
9 residency in ~~the State of Oklahoma~~ this state;

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

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

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

17 6. All applicants must disclose all ownership interests in the
18 commercial grower operation.

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

1 C. A licensed commercial grower may sell marijuana to a
2 licensed dispensary or a licensed processor. Further, sales by a
3 licensed commercial grower shall be considered wholesale sales and
4 shall not be subject to taxation. Under no circumstances may a
5 licensed commercial grower sell marijuana directly to a licensed
6 medical marijuana patient or licensed caregiver. A licensed
7 commercial grower may only sell at the wholesale level to a licensed
8 dispensary, a licensed grower or a licensed processor. If the
9 federal government lifts restrictions on buying and selling
10 marijuana between states, then a licensed commercial grower would be
11 allowed to sell and buy marijuana wholesale from, or to, an out-of-
12 state wholesale provider. A licensed commercial grower shall be
13 required to complete a monthly yield and sales report to the State
14 Department of Health. This report shall be due on the fifteenth of
15 each month and provide reporting on the previous month. This report
16 shall detail the amount of marijuana harvested in pounds, the amount
17 of drying or dried marijuana on hand, the amount of marijuana sold
18 to licensed processors in pounds, the amount of waste in pounds, and
19 the amount of marijuana sold to licensed dispensaries in pounds.
20 Additionally, this report shall show total wholesale sales in
21 dollars. The State Department of Health shall have oversight and
22 auditing responsibilities to ensure that all marijuana being grown
23 by licensed commercial growers is accounted for.

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

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

13 F. After the effective date of this act, no application for a
14 commercial grower license submitted to the Department shall be
15 approved until the Oklahoma Medical Marijuana Authority conducts an
16 inspection and financial audit of all current licensees and their
17 operations.

18 SECTION 2. AMENDATORY 63 O.S. 2021, Section 427.14, as
19 last amended by Section 8, Chapter 584, O.S.L. 2021, is amended to
20 read as follows:

21 Section 427.14. A. There is hereby created the medical
22 marijuana business license, which shall include the following
23 categories:

1 1. Medical marijuana commercial grower, except as provided in
2 subsection F of Section 422 of this title;

3 2. Medical marijuana processor;

4 3. Medical marijuana dispensary;

5 4. Medical marijuana transporter; and

6 5. Medical marijuana testing laboratory.

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

10 C. The Authority shall make available on its website in an
11 easy-to-find location, applications for a medical marijuana
12 business.

13 D. The nonrefundable application fee for a medical marijuana
14 business license shall be Two Thousand Five Hundred Dollars
15 (\$2,500.00).

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

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

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

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

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

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

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

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

13 a. all applicants shall be age twenty-five (25) years of
14 age or older,

15 b. any applicant applying as an individual shall show
16 proof that the applicant is an Oklahoma resident
17 pursuant to paragraph 11 of this subsection,

18 c. any applicant applying as an entity shall show that
19 seventy-five percent (75%) of all members, managers,
20 executive officers, partners, board members or any
21 other form of business ownership are Oklahoma
22 residents pursuant to paragraph 11 of this subsection,

23 d. all applying individuals or entities shall be
24 registered to conduct business in this state,
25

1 e. all applicants shall disclose all ownership interests
2 pursuant to the Oklahoma Medical Marijuana and Patient
3 Protection Act, and

4 f. applicants shall not have been convicted of a
5 nonviolent felony in the last two (2) years, and any
6 other felony conviction within the last five (5)
7 years, shall not be current inmates, or currently
8 incarcerated in a jail or corrections facility;

9 8. There shall be no limit to the number of medical marijuana
10 business licenses or categories that an individual or entity can
11 apply for or receive, although each application and each category
12 shall require a separate application and application fee. A
13 commercial grower, processor and dispensary, or any combination
14 thereof, are authorized to share the same address or physical
15 location, subject to the restrictions set forth in the Oklahoma
16 Medical Marijuana and Patient Protection Act;

17 9. All applicants for a medical marijuana business license,
18 research facility license or education facility license authorized
19 by the Oklahoma Medical Marijuana and Patient Protection Act shall
20 undergo an Oklahoma criminal history background check conducted by
21 the Oklahoma State Bureau of Investigation (OSBI) within thirty (30)
22 days prior to the application for the license including:

- 23 a. individual applicants applying on their own behalf,
24 b. individuals applying on behalf of an entity,

1 c. all principal officers of an entity, and

2 d. all owners of an entity as defined by Section 427.2 of
3 this title;

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

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

15 a. an unexpired Oklahoma-issued driver license,

16 b. an Oklahoma voter identification card,

17 c. a utility bill preceding the date of application,
18 excluding cellular telephone and Internet bills,

19 d. a residential property deed to property in this state,
20 and

21 e. a rental agreement preceding the date of application
22 for residential property located in this state.

23 Applicants that were issued a medical marijuana business license
24 prior to the enactment of the Oklahoma Medical Marijuana and Patient
25

1 Protection Act are hereby exempt from the two-year or five-year
2 Oklahoma residence requirement mentioned above;

3 12. All license applicants shall be required to submit a
4 registration with the Oklahoma State Bureau of Narcotics and
5 Dangerous Drugs Control as provided in Sections 2-302 through 2-304
6 of this title;

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

- 10 a. front and back of an Oklahoma driver license,
- 11 b. front and back of an Oklahoma identification card,
- 12 c. a United States passport or other photo identification
13 issued by the United States government,
- 14 d. certified copy of the applicant's birth certificate
15 for minor applicants who do not possess a document
16 listed in this section, or
- 17 e. a tribal identification card approved for
18 identification purposes by the ~~Oklahoma~~ Department of
19 Public Safety; and

20 14. All applicants shall submit an applicant photograph.

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

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

4 2. Approved applicants shall be issued a medical marijuana
5 business license for the specific category applied under which shall
6 act as proof of their approved status. Rejection letters shall
7 provide a reason for the rejection. Applications may only be
8 rejected based on the applicant not meeting the standards set forth
9 in the provisions of this section, improper completion of the
10 application or for a reason provided for in the Oklahoma Medical
11 Marijuana and Patient Protection Act or subsection F of Section 1 of
12 this act. If an application is rejected for failure to provide
13 required information, the applicant shall have thirty (30) days to
14 submit the required information for reconsideration. No additional
15 application fee shall be charged for such reconsideration.

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

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

23 H. A medical marijuana business license shall not be issued to
24 or held by:

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

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

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

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

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

14 a. file taxes, interest or penalties due related to a
15 medical marijuana business, or

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

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

21 7. A person whose authority to be a caregiver as defined in the
22 Oklahoma Medical Marijuana and Patient Protection Act has been
23 revoked by the Authority.

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

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

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

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

7 M. All medical marijuana business licensees shall pay the
8 relevant licensure fees prior to receiving licensure to operate a
9 medical marijuana business, as defined in the Oklahoma Medical
10 Marijuana and Patient Protection Act for each class of license.

11 N. An original medical marijuana business license issued on or
12 after June 26, 2018, by the Authority, for a medical marijuana
13 commercial grower, a medical marijuana processor or a medical
14 marijuana dispensary shall be deemed to have been grandfathered into
15 the location on the date the original license was first issued for
16 purposes of determining the authority of the business to conduct and
17 continue the same type of business at that location under a license
18 issued by the Authority, except as may be provided in Sections 425
19 and 426.1 of this title. Any change in ownership after the original
20 medical marijuana business license has been issued by the Authority
21 shall be construed by the Authority to be a continuation of the same
22 type of business originally licensed at that location. Nothing
23 shall authorize the Authority to deny issuance or renewal of a
24 license or transfer of license due to a change in ownership for the

1 same business location previously licensed, except when a revocation
2 is otherwise authorized by law or a protest is made under the
3 municipal compliance provisions of Section 426.1 of this title.

4 SECTION 3. This act shall become effective November 1, 2022.

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