

1 **SENATE FLOOR VERSION**

2 February 8, 2023

3 SENATE BILL NO. 913

By: Jech

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5
6 An Act relating to medical marijuana growing
7 operations; amending 63 O.S. 2021, Section 427.14, as
8 last amended by Section 4, Chapter 332, O.S.L. 2022
9 (63 O.S. Supp. 2022, Section 427.14), which relates
10 to the medical marijuana business license; requiring
11 bond to be submitted during application process if
12 participating in growing operations; requiring bond
13 to be filed with the Oklahoma Medical Marijuana
14 Authority for designated area of commercial growing
15 operations; providing minimum amount; allowing
16 Authority to require additional coverage; requiring
17 amount should be sufficient in event of loss of
18 license; providing an exception; providing for
19 codification; and declaring an emergency.

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

21 SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.14, as
22 last amended by Section 4, Chapter 332, O.S.L. 2022 (63 O.S. Supp.
23 2022, Section 427.14), is amended to read as follows:

24 Section 427.14. 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;

1 4. Medical marijuana transporter; and

2 5. Medical marijuana testing laboratory.

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

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

9 D. 1. The annual, nonrefundable fee for a medical marijuana
10 transporter license shall be Two Thousand Five Hundred Dollars
11 (\$2,500.00).

12 2. The initial fee for a medical marijuana commercial grower
13 license shall be calculated based upon the total amount of square
14 feet of canopy or acres the grower estimates will be harvested for
15 the year. The annual, nonrefundable license fee shall be based upon
16 the total amount of square feet of canopy harvested by the grower
17 during the previous twelve (12) months. The amount of the fees
18 shall be determined as follows:

19 a. For an indoor, greenhouse, or light deprivation
20 medical marijuana grow facility:

21 (1) Tier 1: Up to ten thousand (10,000) square feet
22 of canopy, the fee shall be Two Thousand Five
23 Hundred Dollars (\$2,500.00),
24

- 1 (2) Tier 2: Ten thousand one (10,001) square feet of
2 canopy to twenty thousand (20,000) square feet of
3 canopy, the fee shall be Five Thousand Dollars
4 (\$5,000.00),
- 5 (3) Tier 3: Twenty thousand one (20,001) square feet
6 of canopy to forty thousand (40,000) square feet
7 of canopy, the fee shall be Ten Thousand Dollars
8 (\$10,000.00),
- 9 (4) Tier 4: Forty thousand one (40,001) square feet
10 of canopy to sixty thousand (60,000) square feet
11 of canopy, the fee shall be Twenty Thousand
12 Dollars (\$20,000.00),
- 13 (5) Tier 5: Sixty thousand one (60,001) square feet
14 of canopy to eighty thousand (80,000) square feet
15 of canopy, the fee shall be Thirty Thousand
16 Dollars (\$30,000.00),
- 17 (6) Tier 6: Eighty thousand one (80,001) square feet
18 of canopy to ninety-nine thousand nine hundred
19 ninety-nine (99,999) square feet of canopy, the
20 fee shall be Forty Thousand Dollars (\$40,000.00),
21 and
- 22 (7) Tier 7: One hundred thousand (100,000) square
23 feet of canopy and beyond, the fee shall be Fifty
24 Thousand Dollars (\$50,000.00), plus an additional

1 twenty-five cents (\$0.25) per square foot of
2 canopy over one hundred thousand (100,000) square
3 feet.

4 b. For an outdoor medical marijuana grow facility:

5 (1) Tier 1: Up to two and one-half (2 1/2) acres,
6 the fee shall be Two Thousand Five Hundred
7 Dollars (\$2,500.00),

8 (2) Tier 2: Two and one-half (2 1/2) acres up to
9 five (5) acres, the fee shall be Five Thousand
10 Dollars (\$5,000.00),

11 (3) Tier 3: Five (5) acres up to ten (10) acres, the
12 fee shall be Ten Thousand Dollars (\$10,000.00),

13 (4) Tier 4: Ten (10) acres up to twenty (20) acres,
14 the fee shall be Twenty Thousand Dollars
15 (\$20,000.00),

16 (5) Tier 5: Twenty (20) acres up to thirty (30)
17 acres, the fee shall be Thirty Thousand Dollars
18 (\$30,000.00),

19 (6) Tier 6: Thirty (30) acres up to forty (40)
20 acres, the fee shall be Forty Thousand Dollars
21 (\$40,000.00),

22 (7) Tier 7: Forty (40) acres up to fifty (50) acres,
23 the fee shall be Fifty Thousand Dollars
24 (\$50,000.00), and

1 (8) Tier 8: If the amount of acreage exceeds fifty
2 (50) acres, the fee shall be Fifty Thousand
3 Dollars (\$50,000.00) plus an additional Two
4 Hundred Fifty Dollars (\$250.00) per acre.

5 c. For a medical marijuana commercial grower that has a
6 combination of both indoor and outdoor growing
7 facilities at one location, the medical marijuana
8 commercial grower shall be required to obtain a
9 separate license from the Authority for each type of
10 grow operation and shall be subject to the licensing
11 fees provided for in subparagraphs a and b of this
12 paragraph.

13 d. As used in this paragraph:

14 (1) "canopy" means the total surface area within a
15 cultivation area that is dedicated to the
16 cultivation of flowering marijuana plants. The
17 surface area of the plant canopy must be
18 calculated in square feet and measured and must
19 include all of the area within the boundaries
20 where the cultivation of the flowering marijuana
21 plants occurs. If the surface of the plant
22 canopy consists of noncontiguous areas, each
23 component area must be separated by identifiable
24 boundaries. If a tiered or shelving system is

1 used in the cultivation area, the surface area of
2 each tier or shelf must be included in
3 calculating the area of the plant canopy.
4 Calculation of the area of the plant canopy may
5 not include the areas within the cultivation area
6 that are used to cultivate immature marijuana
7 plants and seedlings, prior to flowering, and
8 that are not used at any time to cultivate mature
9 marijuana plants. If the flowering plants are
10 vertically grown in cylinders, the square footage
11 of the canopy shall be measured by the
12 circumference of the cylinder multiplied by the
13 total length of the cylinder,

14 (2) "greenhouse" means a structure located outdoors
15 that is completely covered by a material that
16 allows a controlled level of light transmission,
17 and

18 (3) "light deprivation" means a structure that has
19 concrete floors and the ability to manipulate
20 natural light.

21 3. The annual, nonrefundable license fee for a medical
22 marijuana processor license shall be determined as follows:

23 a. Tier 1: Zero (0) to ten thousand (10,000) pounds of
24 biomass or production or use of up to one hundred

1 (100) liters of cannabis concentrate, the annual fee
2 shall be Two Thousand Five Hundred Dollars
3 (\$2,500.00),

4 b. Tier 2: Ten thousand one (10,001) pounds to fifty
5 thousand (50,000) pounds of biomass or production or
6 use from one hundred one (101) to three hundred fifty
7 (350) liters of cannabis concentrate, the annual fee
8 shall be Five Thousand Dollars (\$5,000.00),

9 c. Tier 3: Fifty thousand one (50,001) pounds to one
10 hundred fifty thousand (150,000) pounds of biomass or
11 production or use from three hundred fifty-one (351)
12 to six hundred fifty (650) liters of cannabis
13 concentrate, the annual fee shall be Ten Thousand
14 Dollars (\$10,000.00),

15 d. Tier 4: One hundred fifty thousand one (150,001)
16 pounds to three hundred thousand (300,000) pounds of
17 biomass or production or use from six hundred fifty-
18 one (651) to one thousand (1,000) liters of cannabis
19 concentrate, the annual fee shall be Fifteen Thousand
20 Dollars (\$15,000.00), and

21 e. Tier 5: More than three hundred thousand one
22 (300,001) pounds of biomass or production or use in
23 excess of one thousand one (1,001) liters of cannabis
24

1 concentrate, the annual fee shall be Twenty Thousand
2 Dollars (\$20,000.00).

3 For purposes of this paragraph only, if the cannabis concentrate
4 is in nonliquid form, every one thousand (1,000) grams of
5 concentrated marijuana shall be calculated as one (1) liter of
6 cannabis concentrate.

7 4. The initial fee for a medical marijuana dispensary license
8 shall be Two Thousand Five Hundred Dollars (\$2,500.00). The annual,
9 nonrefundable license fee for a medical marijuana dispensary license
10 shall be calculated at ten percent (10%) of the sum of twelve (12)
11 calendar months of the combined annual state sales tax and state
12 excise tax of the dispensary. The minimum fee shall be not less
13 than Two Thousand Five Hundred Dollars (\$2,500.00) and the maximum
14 fee shall not exceed Ten Thousand Dollars (\$10,000.00).

15 5. The annual, nonrefundable license fee for a medical
16 marijuana testing laboratory shall be Twenty Thousand Dollars
17 (\$20,000.00).

18 E. All applicants seeking licensure or licensure renewal as a
19 medical marijuana business shall comply with the following general
20 requirements:

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

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

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

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

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

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

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

16 a. twenty-five (25) years of age or older,

17 b. if applying as an individual, proof that the applicant
18 is an Oklahoma resident pursuant to paragraph 11 of
19 this subsection,

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

- 1 d. if applying as an individual or entity, proof that the
2 individual or entity is registered to conduct business
3 in the State of Oklahoma,
4 e. disclosure of all ownership interests pursuant to the
5 Oklahoma Medical Marijuana and Patient Protection Act,
6 and
7 f. proof that the medical marijuana business, medical
8 marijuana research facility, medical marijuana
9 education facility and medical marijuana waste
10 disposal facility applicant or licensee has not been
11 convicted of a nonviolent felony in the last two (2)
12 years, or any other felony conviction within the last
13 five (5) years, is not a current inmate in the custody
14 of the Department of Corrections, or currently
15 incarcerated in a jail or corrections facility;

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

1 9. All applicants for a medical marijuana business license,
2 research facility license or education facility license authorized
3 by the Oklahoma Medical Marijuana and Patient Protection Act, or for
4 a renewal of such license, shall undergo an Oklahoma criminal
5 history background check conducted by the Oklahoma State Bureau of
6 Investigation (OSBI) within thirty (30) days prior to the
7 application for the license, including:

- 8 a. individual applicants applying on their own behalf,
- 9 b. individuals applying on behalf of an entity,
- 10 c. all principal officers of an entity, and
- 11 d. all owners of an entity as defined by the Oklahoma
12 Medical Marijuana and Patient Protection Act;

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

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

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

- 1 b. an Oklahoma identification card,
- 2 c. a utility bill preceding the date of application,
- 3 excluding cellular telephone and Internet bills,
- 4 d. a residential property deed to property in the State
- 5 of Oklahoma, and
- 6 e. a rental agreement preceding the date of application
- 7 for residential property located in the State of
- 8 Oklahoma.

9 Applicants that were issued a medical marijuana business license
10 prior to August 30, 2019, are hereby exempt from the two-year or
11 five-year Oklahoma residence requirement mentioned above;

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

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

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

1 d. a tribal identification card approved for
2 identification purposes by the Oklahoma Department of
3 Public Safety; ~~and~~

4 14. All applicants shall submit an applicant photograph; and

5 15. All applicants for a medical marijuana business license
6 seeking to operate a commercial grow shall file along with their
7 applicant a bond as prescribed in Section 2 of this act.

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

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

15 2. Approved applicants shall be issued a medical marijuana
16 business license for the specific category applied under, which
17 shall act as proof of their approved status. Rejection and denial
18 letters shall provide a reason for the rejection or denial.
19 Applications may only be rejected or denied based on the applicant
20 not meeting the standards set forth in the provisions of the
21 Oklahoma Medical Marijuana and Patient Protection Act and Sections
22 420 through 426.1 of this title, improper completion of the
23 application, or for a reason provided for in the Oklahoma Medical
24 Marijuana and Patient Protection Act and Sections 420 through 426.1

1 of this title. If an application is rejected for failure to provide
2 required information, the applicant shall have thirty (30) days to
3 submit the required information for reconsideration. No additional
4 application fee shall be charged for such reconsideration. Unless
5 the Authority determines otherwise, an application that has been
6 resubmitted but is still incomplete or contains errors that are not
7 clerical or typographical in nature shall be denied.

8 3. Status-update letters shall provide a reason for delay in
9 either approval, rejection or denial should a situation arise in
10 which an application was submitted properly but a delay in
11 processing the application occurred.

12 4. Approval, rejection, denial or status-update letters shall
13 be sent to the applicant in the same method the application was
14 submitted to the Authority.

15 H. A license for a medical marijuana business, medical
16 marijuana research facility, medical marijuana education facility or
17 medical marijuana waste disposal facility shall not be issued to or
18 held by:

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

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

23 3. A corporation, if the criminal history of any of its
24 officers, directors or stockholders indicates that the officer,

1 director or stockholder has been convicted of a nonviolent felony
2 within two (2) years of the date of application, or within five (5)
3 years for any other felony;

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

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

8 a. file taxes, interest or penalties due related to a
9 medical marijuana business, or

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

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

14 7. A person whose authority to be a caregiver, as defined in
15 Section 427.2 of this title, has been revoked by the Authority; or

16 8. A person who was involved in the management or operations of
17 any medical marijuana business, medical marijuana research facility,
18 medical marijuana education facility or medical marijuana waste
19 disposal facility that, after the initiation of a disciplinary
20 action, has had a medical marijuana license revoked, not renewed, or
21 surrendered during the five (5) years preceding submission of the
22 application and for the following violations:

23 a. unlawful sales or purchases,

24

- 1 b. any fraudulent acts, falsification of records or
2 misrepresentation to the Authority, medical marijuana
3 patient licensees, caregiver licensees or medical
4 marijuana business licensees,
5 c. any grossly inaccurate or fraudulent reporting,
6 d. threatening or harming any medical marijuana patient,
7 caregiver, medical practitioner or employee of the
8 Authority,
9 e. knowingly or intentionally refusing to permit the
10 Authority access to premises or records,
11 f. using a prohibited, hazardous substance for processing
12 in a residential area,
13 g. criminal acts relating to the operation of a medical
14 marijuana business, or
15 h. any violations that endanger public health and safety
16 or product safety.

17 I. In investigating the qualifications of an applicant or a
18 licensee, the Authority and municipalities may have access to
19 criminal history record information furnished by a criminal justice
20 agency subject to any restrictions imposed by such an agency.

21 J. The failure of an applicant or licensee to provide the
22 requested information by the Authority deadline may be grounds for
23 denial of the application.
24

1 K. All applicants and licensees shall submit information to the
2 Authority in a full, faithful, truthful and fair manner. The
3 Authority may recommend denial of an application where the applicant
4 or licensee made misstatements, omissions, misrepresentations or
5 untruths in the application or in connection with the background
6 investigation of the applicant. This type of conduct may be grounds
7 for administrative action against the applicant or licensee. Typos
8 and scrivener errors shall not be grounds for denial.

9 L. A licensed medical marijuana business premises shall be
10 subject to and responsible for compliance with applicable provisions
11 consistent with the zoning where such business is located as
12 described in the most recent versions of the Oklahoma Uniform
13 Building Code, the International Building Code and the International
14 Fire Code, unless granted an exemption by a municipality or
15 appropriate code enforcement entity.

16 M. All medical marijuana business, medical marijuana research
17 facility, medical marijuana education facility and medical marijuana
18 waste disposal facility licensees shall pay the relevant licensure
19 fees prior to receiving licensure to operate.

20 N. A medical marijuana business, medical marijuana research
21 facility, medical marijuana education facility or medical marijuana
22 waste disposal facility that attempts to renew its license after the
23 expiration date of the license shall pay a late renewal fee in an
24 amount to be determined by the Authority to reinstate the license.

1 Late renewal fees are nonrefundable. A license that has been
2 expired for more than ninety (90) days shall not be renewed.

3 O. No medical marijuana business, medical marijuana research
4 facility, medical marijuana education facility or medical marijuana
5 waste disposal facility shall possess, sell or transfer medical
6 marijuana or medical marijuana products without a valid, unexpired
7 license issued by the Authority.

8 SECTION 2. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 427.26 of Title 63, unless there
10 is created a duplication in numbering, reads as follows:

11 A. It shall be unlawful for any holder of a medical marijuana
12 business license pursuant to Section 427.14 of Title 63 of the
13 Oklahoma Statutes to engage in any commercial growing operations in
14 this state without acquiring a bond. The bond shall cover that area
15 of land within the permit area upon which the business licensee will
16 initiate and conduct commercial growing operations.

17 B. Every applicant for a commercial grower license or
18 commercial grower licensee shall file with the Oklahoma Medical
19 Marijuana Authority a bond satisfactory to the Authority and in the
20 amount no less than Twenty-five Thousand Dollars (\$25,000.00) for
21 each license sought or held, with a surety company qualified to do
22 business in this state as a surety. The bond shall be furnished to
23 the state for the use of the state pursuant to the provisions of
24 this act. The bond shall be conditional that the obligor will

1 comply with the provisions of this act and all rules and regulations
2 made pursuant to this act and will pay all amounts of money that may
3 be due to the state during the time such bond is in effect.

4 C. The Authority may require a higher amount depending upon the
5 reclamation requirements of the approved application. The amount
6 shall reflect the probable difficulty of reclamation with
7 consideration for such factors including, but not limited to,
8 topography, hydrology, and revegetation potential. The amount of
9 the bond for a commercial growing operation shall be sufficient to
10 assure the completion of the reclamation plan if the work has to be
11 performed by the Authority in the event of revocation of license.

12 D. A holder of a medical marijuana business license pursuant to
13 Section 427.14 of Title 63 of the Oklahoma Statutes engaging in a
14 commercial growing operation may operate without obtaining a bond
15 upon verification by the Authority that the permitted land on which
16 the licensee operates the commercial growing operation has been
17 owned by the licensee for a least a five-year period prior to
18 submission of application.

19 SECTION 3. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

23 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
24 February 8, 2023 - DO PASS