

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 768

6 By: McCortney

7 COMMITTEE SUBSTITUTE

8 An Act relating to medical marijuana; amending
9 Sections 1, 2, 3 and 4, State Question No. 788,
10 Initiative Petition No. 412 (63 O.S. Supp. 2018,
11 Sections 420, 421, 422 and 423), which relate to
12 medical marijuana; extending application review
13 period; clarifying language; and declaring an
14 emergency.

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

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

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

- 21 1. Consume marijuana legally;
- 22 2. Legally possess up to three (3) ounces of marijuana on their
23 person;
- 24 3. Legally possess six (6) mature marijuana plants;
4. Legally possess six (6) seedling plants;

- 1 5. Legally possess one (1) ounce of concentrated marijuana;
2 6. Legally possess seventy-two (72) ounces of edible marijuana;
3 and
4 7. Legally possess up to eight (8) ounces of marijuana in their
5 residence.

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

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

15 D. The ~~Oklahoma~~ State Department of Health shall, within thirty
16 (30) days of passage of this initiative, make available~~r~~ on ~~their~~
17 the Department's website, in an easy to find location, an
18 application for a medical marijuana license. The license ~~will be~~
19 ~~good~~ shall be valid for two (2) years, and the application fee ~~will~~
20 shall be One Hundred Dollars (\$100.00), or Twenty Dollars (\$20.00)
21 for individuals on Medicaid, Medicare~~r~~ or SoonerCare. The methods
22 of payment ~~will~~ shall be provided on the Department's website.

23 E. A temporary license application ~~will~~ shall also be made
24 available on the ~~Oklahoma~~ State Department of Health website. A

1 temporary medical marijuana license ~~will~~ shall be granted to any
2 medical marijuana license holder from other states, provided that
3 the state has a state regulated medical marijuana program, and the
4 applicant can prove they are a member of such program. Temporary
5 licenses ~~will~~ shall be issued for thirty (30) days. The cost for a
6 temporary license shall be One Hundred Dollars (\$100.00). Renewal
7 ~~will~~ shall be granted with resubmission of a new application. No
8 additional criteria ~~will~~ shall be required.

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

14 G. The ~~Oklahoma~~ State Department of Health shall review the
15 medical marijuana application, ~~approve/reject~~ approve or reject the
16 application, and mail the applicant's approval or rejection letter
17 ~~(stating reasons for rejection),~~ stating any reasons for rejection,
18 to the applicant within thirty (30) business days of receipt of the
19 application. Beginning April 1, 2021, the Department shall mail the
20 approval or rejection letter to the applicant within fourteen (14)
21 calendar days of receipt of the application. Approved applicants
22 ~~will~~ shall be issued a medical marijuana license which ~~will~~ shall
23 act as proof of their approved status. Applications may only be
24

1 rejected based on the applicant not meeting stated criteria or
2 improper completion of the application.

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

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

10 I. The State Department of Health ~~will~~ shall make available,
11 both on ~~its~~ the Department's website, and through a telephone
12 verification system, an easy method to validate a medical marijuana
13 license ~~holders~~ holder's authenticity by the unique ~~24-character~~
14 twenty-four-character identifier.

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

18 K. A caregiver license ~~will~~ shall be made available for
19 qualified caregivers of a medical marijuana license holder who is
20 homebound. The caregiver license ~~will~~ shall give the caregiver the
21 same rights as the medical marijuana license holder. Applicants for
22 a caregiver license ~~will~~ shall submit proof of the medical marijuana
23 license holder's license status and homebound status, proof that
24 they are the designee of the medical marijuana license holder, ~~must~~

1 ~~submit~~ proof that the caregiver is age eighteen (18) or older, and
2 ~~must submit~~ proof the caregiver is an Oklahoma resident. This ~~will~~
3 shall be the only criteria for a caregiver license.

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

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

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

19 SECTION 2. AMENDATORY Section 2, State Question No. 788,
20 Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 421), is
21 amended to read as follows:

22 Section 421. A. The ~~Oklahoma~~ State Department of Health shall,
23 within thirty (30) days of passage of this initiative, make
24 available, ~~on their~~ the Department's website, in an easy to find

1 location, an application for a medical marijuana dispensary license.
2 The application fee shall be Two Thousand Five Hundred Dollars
3 (\$2,500.00) and a method of payment ~~will~~ shall be provided on the
4 Department's website. ~~Retail Dispensary~~ applicants ~~must~~ shall all
5 be Oklahoma state residents. Any entity applying for a ~~retail~~
6 dispensary license ~~must~~ shall be owned by an Oklahoma state resident
7 and ~~must~~ shall be registered to do business in Oklahoma. ~~The~~
8 ~~Oklahoma State Department of Health Department~~ Department shall ~~have two (2)~~
9 ~~weeks to~~ review the application, approve or reject the application,
10 and mail the ~~approval/rejection~~ approval or rejection letter ~~(if~~
11 ~~rejected, stating reasons for rejection)~~, stating any reasons for
12 rejection, to the applicant within ninety (90) business days of
13 receipt of the application. Beginning April 1, 2021, the Department
14 shall mail the approval or rejection letter to the applicant within
15 fourteen (14) calendar days of receipt of the application.

16 B. The ~~Oklahoma~~ State Department of Health ~~must~~ shall approve
17 all applications which meet the following criteria:

18 1. ~~Applicant must~~ Applicants shall be ~~age~~ twenty-five (25)
19 years old or older;

20 2. Any applicant, applying as an individual, ~~must~~ shall show
21 residency in the State of Oklahoma;

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

24

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

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

6 6. All applicants ~~must~~ shall disclose all ownership;

7 7. ~~Applicant(s) with only nonviolent~~ Applicants shall not have
8 a violent felony conviction(s) conviction in the ~~last~~ two (2) years,
9 prior to applying or any other felony conviction in five 5 (years),
10 the five (5) years prior to applying and shall not be inmates, or
11 ~~any person currently incarcerated may not qualify for a medical~~
12 ~~marijuana dispensary license.~~

13 C. ~~Retailers will be required to~~ Dispensaries shall complete a
14 monthly sales report to the ~~Oklahoma~~ State Department of Health.
15 ~~This~~ The report ~~will~~ shall be due on the 15th of each month and
16 shall provide reporting on the previous month. ~~This~~ The report ~~will~~
17 shall detail the weight of marijuana purchased at wholesale and the
18 weight of marijuana sold to card holders, and account for any waste.
19 The report ~~will~~ shall show total sales in dollars, tax collected in
20 dollars, and tax due in dollars. The ~~Oklahoma State Department of~~
21 ~~Health will~~ Department shall have oversight and auditing
22 responsibilities to ensure that all marijuana being grown is
23 accounted for. A ~~retailer will~~ dispensary shall only be subject to
24 a penalty if a gross discrepancy exists and cannot be explained.

1 Penalties for fraudulent reporting occurring within any ~~2~~ two (2)
2 year time period ~~will~~ shall be an initial fine of Five Thousand
3 Dollars (\$5,000.00) ~~(first)~~ for the first offense and revocation of
4 ~~licensing~~ ~~(second)~~ licensure for the second offense.

5 D. Only a licensed medical marijuana ~~retailer~~ dispensary may
6 conduct retail sales of marijuana, or marijuana derivatives in the
7 form provided by licensed processors, and ~~these~~ such products ~~can~~
8 shall only be sold to a medical marijuana license holder or ~~their~~
9 the license holder's caregiver. Penalties for fraudulent sales
10 occurring within any ~~2-year~~ two-year time period ~~will~~ shall be an
11 initial fine of Five Thousand Dollars (\$5,000.00) ~~(first)~~ for the
12 first offense and revocation of ~~licensing~~ ~~(second)~~ licensure for the
13 second offense.

14 SECTION 3. AMENDATORY Section 3, State Question No. 788,
15 Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 422), is
16 amended to read as follows:

17 Section 422. A. The ~~Oklahoma~~ State Department of Health ~~will~~
18 shall, within thirty (30) days of passage of this initiative, make
19 available, on ~~their~~ the Department's website, in an easy to find
20 location, an application for a commercial grower license. The
21 application fee will be Two Thousand Five Hundred Dollars
22 (\$2,500.00) and methods of payment will be provided on the website.
23 The ~~Oklahoma~~ State Department of Health ~~has two (2) weeks to~~ shall
24 review the application, approve or reject the application, and mail

1 the ~~approval/rejection~~ approval or rejection letter (~~if rejected,~~
2 ~~stating reasons for rejection~~), stating any reasons for rejection,
3 to the applicant within ninety (90) business days of receipt of the
4 application. Beginning April 1, 2021, the Department shall mail the
5 approval or rejection letter to the applicant within fourteen (14)
6 calendar days of receipt of the application.

7 B. The Oklahoma State Department of Health ~~must~~ shall approve
8 all applications which meet the following criteria:

9 1. ~~Applicant must~~ Applicants shall be ~~age~~ twenty-five (25)
10 years old or older;

11 2. Any applicant, ~~applying as an individual,~~ ~~must~~ shall show
12 residency in the State of Oklahoma;

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

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

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

20 6. All applicants ~~must~~ shall disclose all ownership;

21 7. ~~Applicant(s) with only nonviolent~~ Applicants shall not have
22 a violent felony conviction(s) conviction in the ~~last~~ two (2) years,
23 prior to applying or any other felony conviction in 5 (years), the
24 five (5) years prior to applying and shall not be inmates, or any

1 ~~person~~ currently incarcerated ~~may not qualify for a commercial~~
2 ~~grower license.~~

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

1 being grown is accounted for. A licensed grower ~~will~~ shall only be
2 subject to a penalty if a gross discrepancy exists and cannot be
3 explained. Penalties for fraudulent reporting or sales occurring
4 within any ~~2-year~~ two-year time period ~~will~~ shall be an initial fine
5 of Five Thousand Dollars (\$5,000.00) ~~(first)~~ for the first offense
6 and revocation of ~~licensing~~ ~~(second)~~ licensure for the second
7 offense.

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

10 SECTION 4. AMENDATORY Section 4, State Question No. 788,
11 Initiative Petition No. 412 (63 O.S. Supp. 2018, Section 423), is
12 amended to read as follows:

13 Section 423. A. The ~~Oklahoma~~ State Department of Health shall,
14 within thirty (30) days of passage of this initiative, make
15 available, ~~on their~~ the Department's website, in an easy to find
16 location, an application for a medical marijuana ~~processing~~
17 processor license. The application fee shall be Two Thousand Five
18 Hundred Dollars (\$2,500.00) and methods of payment ~~will~~ shall be
19 provided on the Department's website. The ~~Oklahoma State Department~~
20 ~~of Health Department~~ shall ~~have two (2) weeks to~~ review the
21 application, approve or reject the application, and mail the
22 ~~approval/rejection~~ approval or rejection letter ~~(if rejected,~~
23 ~~stating reasons for rejection)~~, stating any reason for rejection, to
24 the applicant within ninety (90) business days of receipt of the

1 application. Beginning April 1, 2021, the Department shall mail the
2 approval or rejection letter to the applicant within fourteen (14)
3 calendar days of receipt of the application.

4 B. The ~~Oklahoma~~ State Department of Health ~~must~~ shall approve
5 all applications which meet the following criteria:

6 1. ~~Applicant must~~ Applicants shall be ~~age~~ twenty-five (25)
7 years old or older;

8 2. Any applicant, ~~applying as an individual,~~ ~~must~~ shall show
9 residency in the State of Oklahoma;

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

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

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

17 6. All applicants ~~must~~ shall disclose all ownership;

18 7. ~~Applicant(s) with only nonviolent~~ Applicants shall not have
19 a violent felony conviction(s) conviction in the ~~last~~ two (2) years,
20 prior to applying or any other felony conviction in five 5 (years),
21 the five (5) years prior to applying and shall not be inmates, or
22 ~~any person~~ currently incarcerated ~~may not qualify for a medical~~
23 ~~marijuana processing license.~~

24

1 C. A licensed processor may take marijuana plants and distill
2 or process ~~these~~ the plants into concentrates, edibles, and other
3 forms for consumption. As required by subsection D of this section,
4 the ~~Oklahoma~~ State Department of Health ~~will~~ shall, within sixty
5 (60) days of passage of this initiative, make available a set of
6 standards which ~~will~~ shall be used by licensed processors in the
7 preparation of edible marijuana products. ~~This should~~ Such
8 standards shall be in line with current food preparation guidelines
9 and no excessive or punitive rules may be established by the
10 ~~Oklahoma State Department of Health~~ Department. Once a year, the
11 ~~Oklahoma State Department of Health~~ Department may inspect a
12 processing operation and determine its compliance with the
13 preparation standards. If deficiencies are found, a written report
14 of deficiency ~~will~~ shall be issued to the processor. The processor
15 ~~will~~ shall have one (1) month to correct the deficiency or be
16 subject to a fine of Five Hundred Dollars (\$500.00) for each
17 deficiency. A licensed processor may sell marijuana products it
18 creates to a licensed ~~retailer,~~ dispensary or any other licensed
19 processor. Further, these sales ~~will~~ shall be considered wholesale
20 sales and shall not be subject to taxation. Under no circumstances
21 may a licensed processor sell marijuana~~,~~ or any marijuana product~~,~~
22 directly to a medical marijuana license holder. However, a licensed
23 processor may process ~~cannabis~~ marijuana into a concentrated form~~,~~
24 for a medical marijuana license holder~~,~~ for a fee. Processors ~~will~~

1 shall be required to complete a monthly yield and sales report to
2 ~~the Oklahoma State Department of Health~~ Department. ~~This~~ The report
3 ~~will~~ shall be due on the 15th of each month and provide reporting on
4 the previous month. ~~This~~ The report ~~will~~ shall detail the amount of
5 marijuana purchased in pounds, the amount of marijuana cooked or
6 processed in pounds, ~~and~~ the amount of waste in pounds.
7 ~~Additionally, this report will show, and~~ total wholesale sales in
8 dollars. ~~The Oklahoma State Department of Health will~~ Department
9 shall have oversight and auditing responsibilities to ensure that
10 all marijuana being grown is accounted for. A licensed processor
11 ~~will~~ shall only be subject to a penalty if a gross discrepancy
12 exists and cannot be explained. Penalties for fraudulent reporting
13 occurring within any ~~2-year~~ two-year time period ~~will~~ shall be an
14 initial fine of Five Thousand Dollars (\$5,000.00) ~~(first)~~ for the
15 first offense and revocation of ~~licensing~~ ~~(second)~~ licensure for the
16 second offense.

17 D. ~~The inspection and compliance of processors producing~~
18 ~~products with marijuana as an additive. The Oklahoma State~~
19 ~~Department of Health will~~ Department shall be compelled to, within
20 thirty (30) days of passage of this initiative, appoint a board of
21 twelve (12) Oklahoma residents, who are marijuana industry experts,
22 to create a list of food safety standards for processing and
23 handling medical marijuana in Oklahoma. ~~These~~ The standards ~~will~~
24 shall be adopted by the agency and the agency ~~can~~ may enforce these

1 standards for processors. The agency ~~will~~ may develop a standards
2 review procedure and ~~these~~ the standards ~~can~~ may be altered by
3 calling another board of twelve (12) Oklahoma marijuana industry
4 experts. A signed letter of twenty (20) operating processors ~~would~~
5 shall constitute a need for a new board and ~~standard~~ standards
6 review.

7 E. If it becomes permissible, under federal law, marijuana may
8 be moved across state lines.

9 F. Any device used for the consumption of medical marijuana
10 shall be considered legal to be sold, manufactured, distributed, and
11 possessed. No merchant, wholesaler, manufacturer, or individual may
12 unduly be harassed or prosecuted for selling, manufacturing, or
13 possession of medical marijuana paraphernalia.

14 SECTION 5. It being immediately necessary for the preservation
15 of the public peace, health or safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

18

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