HB2179 FULLPCS1 Scott Fetgatter-GRS 3/3/2022 11:46:59 am

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES
State of Oklahoma

	SPEAKE	R:						
	CHAIR:							
I mov	ve to ar	mend _	нв2179			0-	f the pri	inted Bill
Page			Section _		Lin	es		ossed Bill
			Title, the En thereof the				ill, and	by
AMEND	TITLE TO	CONFO	RM TO AMENDMENT	's				
Adopte	ed:				Amendment	submitted	by: Scott	Fetgatter

Reading Clerk

1	STATE OF OKLAHOMA				
2	2nd Session of the 58th Legislature (2022)				
3	PROPOSED COMMITTEE SUBSTITUTE				
4	FOR HOUSE BILL NO. 2179 By: Fetgatter				
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7	PROPOSED COMMITTEE SUBSTITUTE				
8	An Act relating to medical marijuana; amending 63 O.S. 2021, Section 422, which relates to licensing				
9	requirements for medical marijuana commercial growers; providing statutory reference for application fee; updating language; amending 63 O.S. 2021, Section 427.14, which relates to the Oklahoma Medical Marijuana and Patient Protection Act; establishing tiered licensing fee schedule for medical marijuana commercial growers; defining term; updating language; and declaring an emergency.				
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13	apadoling language, and declaring an emergency.				
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15	BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:				
16	SECTION 1. AMENDATORY 63 O.S. 2021, Section 422, is				
17	amended to read as follows:				
18	Section 422. A. The State Department of Health shall, within				
19	thirty (30) days of passage of this initiative, Oklahoma Medical				
20	Marijuana Authority shall make available on its website in an easy-				
21	to-find location an application for a <u>medical marijuana</u> commercial				
22	grower license. The application fee shall be Two Thousand Five				
23	Hundred Dollars (\$2,500.00) paid by the applicant in the amounts				
24	provided for in Section 427.14 of this title. A method of payment				

- for the application fee shall be provided on the website of the

 Department Authority. The State Department of Health Authority

 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 Authority shall approve all applications which meet the following criteria:
- 9 1. The applicant must be twenty-five (25) years of age or 10 older;

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- 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.

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.

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C. A licensed medical marijuana commercial grower may sell 3 4 marijuana to a licensed medical marijuana dispensary or a licensed 5 medical marijuana processor. Further, sales by a licensed medical marijuana commercial grower shall be considered wholesale sales and 6 7 shall not be subject to taxation. Under no circumstances may a licensed medical marijuana commercial grower sell marijuana directly 8 9 to a licensed medical marijuana patient or licensed medical 10 marijuana caregiver. A licensed medical marijuana commercial grower 11 may only sell at the wholesale level to a licensed medical marijuana 12 dispensary, a licensed medical marijuana commercial grower or a 13 licensed medical marijuana processor. If the federal government 14 lifts restrictions on buying and selling marijuana between states, 15 then a licensed medical marijuana commercial grower would be allowed 16 to sell and buy marijuana wholesale from, or to, an out-of-state 17 wholesale provider. A licensed medical marijuana commercial grower 18 shall be required to complete a monthly yield and sales report to 19 the State Department of Health Authority. This report shall be due 20 on the fifteenth of each month and provide reporting on the previous 21 This report shall detail the amount of marijuana harvested 22 in pounds, the amount of drying or dried marijuana on hand, the 23 amount of marijuana sold to licensed processors in pounds, the 24 amount of waste in pounds, and the amount of marijuana sold to

- licensed medical marijuana dispensaries in pounds. Additionally,
 this report shall show total wholesale sales in dollars. The State

 Department of Health Authority shall have oversight and auditing
 responsibilities to ensure that all marijuana being grown by

 licensed medical marijuana commercial growers is accounted for.
 - D. There shall be no limits on how much marijuana a licensed medical marijuana commercial grower can grow.

- medical marijuana 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 Licensed 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 Authority.
- SECTION 2. AMENDATORY 63 O.S. 2021, Section 427.14, is amended to read as follows:
- 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;

1 3. Medical marijuana dis	spensary;
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- 4. Medical marijuana transporter; and
- 5. Medical marijuana testing laboratory.
- B. The Oklahoma Medical Marijuana Authority, with the aid of the Office of Management and Enterprise Services, shall develop a website for medical marijuana business applications.
- C. The Authority shall make available on its website in an easy-to-find location, applications for a medical marijuana business.
- D. The 1. Except as provided in paragraph 2 of this subsection, the annual, nonrefundable application fee for a medical marijuana business license shall be Two Thousand Five Hundred Dollars (\$2,500.00).
- 2. The annual, nonrefundable application fee for a medical marijuana commercial grower shall be as follows:
 - a. For an indoor medical marijuana grow facility:
 - (1) Tier 1: Up to eight hundred thirty-three (833)

 square feet of canopy, the fee shall be Two

 Thousand Five Hundred Dollars (\$2,500.00),
 - Tier 2: Eight hundred thirty-four (834) square feet of canopy to two thousand four hundred ninety-nine (2,499) square feet of canopy, the fee shall be calculated at Three Dollars (\$3.00) per square foot of canopy,

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- (3) Tier 3: Two thousand five hundred (2,500) square feet of canopy to four thousand nine hundred ninety-nine (4,999) square feet of canopy, the fee shall be calculated at Three Dollars (\$3.00) per square foot of canopy,
- (4) Tier 4: Five thousand (5,000) square feet of canopy to nine thousand nine hundred ninety-nine (9,999) square feet of canopy, the fee shall be calculated at Three Dollars (\$3.00) per square foot of canopy,
- (5) Tier 5: Ten thousand (10,000) square feet of

 canopy to nineteen thousand nine hundred ninetynine (19,999) square feet of canopy, the fee

 shall be calculated at Three Dollars (\$3.00) per
 square foot of canopy,
- (6) Tier 6: Twenty thousand (20,000) square feet of canopy to twenty-nine thousand nine hundred

 ninety-nine (29,999) square feet of canopy, the

 fee shall be calculated at Three Dollars (\$3.00)

 per square foot of canopy,
- (7) Tier 7: Thirty thousand (30,000) square feet of canopy to forty-nine thousand nine hundred ninety-nine (49,999) square feet of canopy, the

1			fee shall be calculated at Three Dollars (\$3.00)
2			per square foot of canopy, and
3		(8)	Tier 8: Fifty thousand (50,000) square feet of
4			canopy and beyond, the fee shall be calculated at
5			Three Dollars (\$3.00) per square foot of canopy,
6	<u>b.</u>	For	a greenhouse medical marijuana grow facility:
7		(1)	Tier 1: Up to one thousand three hundred eighty-
8			eight (1,388) square feet of canopy, the fee
9			shall be Two Thousand Five Hundred Dollars
10			<u>(\$2,500.00)</u> ,
11		(2)	Tier 2: One thousand three hundred eighty-nine
12			(1,389) square feet of canopy to two thousand
13			four hundred ninety-nine (2,499) square feet of
14			canopy, the fee shall be calculated at One Dollar
15			and eighty cents (\$1.80) per square foot of
16			canopy,
17		(3)	Tier 3: Two thousand five hundred (2,500) square
18			feet of canopy to four thousand nine hundred
19			ninety-nine (4,999) square feet of canopy, the
20			fee shall be calculated at One Dollar and eighty
21			cents (\$1.80) per square foot of canopy,
22		(4)	Tier 4: Five thousand (5,000) square feet of
23			canopy to nine thousand nine hundred ninety-nine
24			(9,999) square feet of canopy, the fee shall be

1			calculated at One Dollar and eighty cents (\$1.80)
2			per square foot of canopy,
3		<u>(5)</u>	Tier 5: Ten thousand (10,000) square feet of
4			canopy to nineteen thousand nine hundred ninety-
5			nine (19,999) square feet of canopy, the fee
6			shall be calculated at One Dollar and eighty
7			cents (\$1.80) per square foot of canopy,
8		(6)	Tier 6: Twenty thousand (20,000) square feet of
9			canopy to twenty-nine thousand nine hundred
10			ninety-nine (29,999) square feet of canopy, the
11			fee shall be calculated at One Dollar and eighty
12			cents (\$1.80) per square foot of canopy,
13		<u>(7)</u>	Tier 7: Thirty thousand (30,000) square feet of
14			canopy to forty-nine thousand nine hundred
15			ninety-nine (49,999) square feet of canopy, the
16			fee shall be calculated at One Dollar and eighty
17			cents (\$1.80) per square foot of canopy, and
18		(8)	Tier 8: Fifty thousand (50,000) square feet of
19			canopy and beyond, the fee shall be calculated at
20			One Dollar and eighty cents (\$1.80) per square
21			foot of canopy, or
22	<u>C.</u>	For	an outdoor medical marijuana grow facility:
23		(1)	Tier 1: Up to thirty-six thousand two hundred
24			eighty-four (36,284) square feet of canopy, the

fee shall be Two Thousand Five Hundred Dollars
(\$2,500.00),

- (2) Tier 2: Thirty-six thousand two hundred eightyfive (36,285) square feet of canopy to two
 hundred seventeen thousand seven hundred ninetynine (217,799) square feet of canopy, the fee
 shall be calculated at six and eighty-nine onehundredths cents (\$0.0689) per square foot of
 canopy,
- (3) Tier 3: Two hundred seventeen thousand eight

 hundred (217,800) square feet of canopy to four

 hundred thirty-five thousand five hundred ninety
 nine (435,599) square feet of canopy, the fee

 shall be calculated at six and eighty-nine onehundredths cents (\$0.0689) per square foot of

 canopy,
- Tier 4: Four hundred thirty-five thousand six hundred (435,600) square feet of canopy to eight hundred seventy-one thousand one hundred ninety-nine (871,199) square feet of canopy, the fee shall be calculated at six and eighty-nine one-hundredths cents (\$0.0689) per square foot of canopy,

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(5) Tier 5: Eight hundred seventy-one thousand two hundred (871,200) square feet of canopy to one million three hundred six thousand seven hundred ninety-nine (1,306,799) square feet of canopy, the fee shall be calculated at six and eighty-nine one-hundredths cents (\$0.0689) per square foot of canopy,

- (6) Tier 6: One million three hundred six thousand eight hundred (1,306,800) square feet of canopy to one million seven hundred forty-two thousand three hundred ninety-nine (1,742,399) square feet of canopy, the fee shall be calculated at six and eighty-nine one-hundredths cents (\$0.0689) per square foot of canopy,
- Tier 7: One million seven hundred forty-two
 thousand four hundred (1,742,400) square feet of
 canopy to two million one hundred seventy-seven
 thousand nine hundred ninety-nine (2,177,999)
 square feet of canopy, the fee shall be
 calculated at six and eighty-nine one-hundredths
 cents (\$0.0689) per square foot of canopy, and
- (8) Tier 8: Two million one hundred seventy-eight thousand (2,178,000) square feet of canopy and beyond, the fee shall be calculated at six and

eighty-nine one-hundredths cents (\$0.0689) per
square foot of canopy.

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- 3. As used in subparagraph b of this subsection, the term

 "greenhouse" means a structure located outdoors that is completely

 covered by a material that allows a controlled level of light

 transmission.
- E. All applicants seeking licensure or licensure renewal as a medical marijuana business shall comply with the following general requirements:
- 1. All applications for licenses and registrations authorized pursuant to this section shall be made upon forms prescribed by the Authority;
- 2. Each application shall identify the city or county in which the applicant seeks to obtain licensure as a medical marijuana business;
- 3. Applicants shall submit a complete application to the Department Authority before the application may be accepted or considered;
- 4. All applications shall be complete and accurate in every detail;
- 5. All applications shall include all attachments or supplemental information required by the forms supplied by the Authority;

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

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- 7. All applicants shall be approved for licensing review that, at a minimum, meets the following criteria:
 - a. twenty-five (25) years of age or older,
 - b. if applying as an individual, proof that the applicant is an Oklahoma resident pursuant to paragraph 11 of this subsection,
 - c. if applying as an entity, proof that seventy-five percent (75%) of all members, managers, executive officers, partners, board members or any other form of business ownership are Oklahoma residents pursuant to paragraph 11 of this subsection,
 - d. if applying as an individual or entity, proof that the individual or entity is registered to conduct business in the State of Oklahoma,
 - e. disclosure of all ownership interests pursuant to the Oklahoma Medical Marijuana and Patient Protection Act, and
 - f. proof that the medical marijuana business, medical marijuana research facility, medical marijuana education facility and medical marijuana waste disposal facility applicant or licensee has not been

convicted of a nonviolent felony in the last two (2) years, or any other felony conviction within the last five (5) years, is not a current inmate in the custody of the Department of Corrections, or currently incarcerated in a jail or corrections facility;

- 8. There shall be no limit to the number of medical marijuana business licenses or categories that an individual or entity can apply for or receive, although each application and each category shall require a separate application and application fee. A commercial grower, processor and dispensary, or any combination thereof, are authorized to share the same address or physical location, subject to the restrictions set forth in the Oklahoma Medical Marijuana and Patient Protection Act;
- 9. All applicants for a medical marijuana business license, research facility license or education facility license authorized by the Oklahoma Medical Marijuana and Patient Protection Act, or for a renewal of such license, shall undergo an Oklahoma criminal history background check conducted by the Oklahoma State Bureau of Investigation (OSBI) within thirty (30) days prior to the application for the license, including:
 - a. individual applicants applying on their own behalf,
 - b. individuals applying on behalf of an entity,
 - c. all principal officers of an entity, and

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d. all owners of an entity as defined by the Oklahoma

Medical Marijuana and Patient Protection Act;

- 10. All applicable fees charged by the OSBI are the responsibility of the applicant and shall not be higher than fees charged to any other person or industry for such background checks;
- 11. In order to be considered an Oklahoma resident for purposes of a medical marijuana business application, all applicants shall provide proof of Oklahoma residency for at least two (2) years immediately preceding the date of application or five (5) years of continuous Oklahoma residency during the preceding twenty-five (25) years immediately preceding the date of application. Sufficient documentation of proof of residency shall include a combination of the following:
 - a. an unexpired Oklahoma-issued driver license,
 - b. an Oklahoma identification card,
 - c. a utility bill preceding the date of application, excluding cellular telephone and Internet bills,
 - d. a residential property deed to property in the State of Oklahoma, and
 - e. a rental agreement preceding the date of application for residential property located in the State of Oklahoma.

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

- 12. All license applicants shall be required to submit a registration with the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control as provided in Sections 2-302 through 2-304 of this title;
- 13. All applicants shall establish their identity through submission of a color copy or digital image of one of the following unexpired documents:
 - a. front of an Oklahoma driver license,
 - b. front of an Oklahoma identification card,
 - c. a United States passport or other photo identification issued by the United States government, or
 - d. a tribal identification card approved for identification purposes by the Oklahoma Department of Public Safety; and
 - 14. All applicants shall submit an applicant photograph.
- F. The Authority shall review the medical marijuana business application; approve, reject or deny the application; and mail the approval, rejection, denial or status-update letter to the applicant within ninety (90) business days of receipt of the application.

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

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- 2. Approved applicants shall be issued a medical marijuana business license for the specific category applied under, which shall act as proof of their approved status. Rejection and denial letters shall provide a reason for the rejection or denial. Applications may only be rejected or denied based on the applicant not meeting the standards set forth in the provisions of the Oklahoma Medical Marijuana and Patient Protection Act and Sections 420 through 426.1 of this title, improper completion of the application, or for a reason provided for in the Oklahoma Medical Marijuana and Patient Protection Act and Sections 420 through 426.1 of this title. If an application is rejected for failure to provide required information, the applicant shall have thirty (30) days to submit the required information for reconsideration. No additional application fee shall be charged for such reconsideration. Unless the Department Authority determines otherwise, an application that has been resubmitted but is still incomplete or contains errors that are not clerical or typographical in nature shall be denied.
- 3. Status-update letters shall provide a reason for delay in either approval, rejection or denial should a situation arise in which an application was submitted properly but a delay in processing the application occurred.

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

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- H. A license for a medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility shall not be issued to or held by:
 - 1. A person until all required fees have been paid;
- 2. A person who has been convicted of a nonviolent felony within two (2) years of the date of application, or within five (5) years for any other felony;
- 3. A corporation, if the criminal history of any of its officers, directors or stockholders indicates that the officer, director or stockholder has been convicted of a nonviolent felony within two (2) years of the date of application, or within five (5) years for any other felony;
 - 4. A person under twenty-five (25) years of age;
- 5. A person licensed pursuant to this section who, during a period of licensure, or who, at the time of application, has failed to:
 - a. file taxes, interest or penalties due related to a medical marijuana business, or
 - b. pay taxes, interest or penalties due related to a medical marijuana business;

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

- 7. A person whose authority to be a caregiver, as defined in Section 427.2 of this title, has been revoked by the Department Authority; or
- 8. A person who was involved in the management or operations of any medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility that, after the initiation of a disciplinary action, has had a medical marijuana license revoked, not renewed, or surrendered during the five (5) years preceding submission of the application and for the following violations:
 - a. unlawful sales or purchases,

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- b. any fraudulent acts, falsification of records or misrepresentation to the Authority, medical marijuana patient licensees, caregiver licensees or medical marijuana business licensees,
- c. any grossly inaccurate or fraudulent reporting,
- d. threatening or harming any medical marijuana patient, caregiver, medical practitioner or employee of the Department Authority,
- e. knowingly or intentionally refusing to permit the Department Authority access to premises or records,

f. using a prohibited, hazardous substance for processing in a residential area,

- g. criminal acts relating to the operation of a medical marijuana business, or
- h. any violations that endanger public health and safety or product safety.
- I. In investigating the qualifications of an applicant or a licensee, the Department, Authority and municipalities may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such an agency.
- J. The failure of an applicant or licensee to provide the requested information by the Authority deadline may be grounds for denial of the application.
- K. All applicants and licensees shall submit information to the Department and Authority in a full, faithful, truthful and fair manner. The Department and Authority may recommend denial of an application where the applicant or licensee made misstatements, omissions, misrepresentations or untruths in the application or in connection with the background investigation of the applicant. This type of conduct may be grounds for administrative action against the applicant or licensee. Typos and scrivener errors shall not be grounds for denial.

- L. A licensed medical marijuana business premises shall be subject to and responsible for compliance with applicable provisions consistent with the zoning where such business is located as described in the most recent versions of the Oklahoma Uniform Building Code, the International Building Code and the International Fire Code, unless granted an exemption by a municipality or appropriate code enforcement entity.
- M. All medical marijuana business, medical marijuana research facility, medical marijuana education facility and medical marijuana waste disposal facility licensees shall pay the relevant licensure fees prior to receiving licensure to operate.
- N. A medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility that attempts to renew its license after the expiration date of the license shall pay a late renewal fee in an amount to be determined by the Department Authority to reinstate the license. Late renewal fees are nonrefundable. A license that has been expired for more than ninety (90) days shall not be renewed.
- O. No medical marijuana business, medical marijuana research facility, medical marijuana education facility or medical marijuana waste disposal facility shall possess, sell or transfer medical marijuana or medical marijuana products without a valid, unexpired license issued by the Department Authority.

Req. No. 10783

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