1	SENATE FLOOR VERSION April 13, 2022
2	APITI 13, 2022
3	ENGROSSED HOUSE BILL NO. 2179 By: Fetgatter and McDugle of
4	BILL NO. 2179 By: Fetgatter and McDugle of the House
5	and
6	Garvin of the Senate
7	
8	
9	[medical marijuana - licensing requirements for medical marijuana commercial growers - tiered
10	licensing fee schedule -
11	emergency]
12	
13	BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:
14	SECTION 1. AMENDATORY 63 O.S. 2021, Section 422, is
15	amended to read as follows:
16	Section 422. A. The State Department of Health shall, within
17	thirty (30) days of passage of this initiative, Oklahoma Medical
18	Marijuana Authority shall make available on its website in an easy-
19	to-find location an application for a <u>medical marijuana</u> commercial
20	grower license. The application fee shall be Two Thousand Five
21	Hundred Dollars (\$2,500.00) paid by the applicant in the amounts
22	provided for in Section 427.14 of this title. A method of payment
23	for the application fee shall be provided on the website of the
24	Department Authority. The State Department of Health Authority

- 1 | shall have ninety (90) days to review the application; approve,
- 2 | reject or deny the application; and mail the approval, rejection or
- 3 denial letter stating the reasons for the rejection or denial to the
- 4 applicant.
- 5 B. The State Department of Health Authority shall approve all
- 6 applications which meet the following criteria:
- 7 | 1. The applicant must be twenty-five (25) years of age or
- 8 older;
- 9 2. The applicant, if applying as an individual, must show
- 10 residency in the State of Oklahoma;
- 3. All applying entities must show that all members, managers,
- 12 and board members are Oklahoma residents;
- 4. An applying entity may show ownership of non-Oklahoma
- 14 residents, but that percentage ownership may not exceed twenty-five
- 15 | percent (25%);
- 16 5. All applying individuals or entities must be registered to
- 17 | conduct business in the State of Oklahoma; and
- 18 6. All applicants must disclose all ownership interests in the
- 19 commercial grower operation.
- 20 Applicants with a nonviolent felony conviction in the last two
- 21 (2) years, any other felony conviction in the last five (5) years,
- 22 | inmates in the custody of the Department of Corrections or any
- 23 person currently incarcerated shall not qualify for a commercial
- 24 grower license.

C. A licensed <u>medical marijuana</u> commercial grower may sell
marijuana to a licensed <u>medical marijuana</u> dispensary or a licensed
medical marijuana processor. Further, sales by a licensed medical
marijuana commercial grower shall be considered wholesale sales and
shall not be subject to taxation. Under no circumstances may a
licensed medical marijuana commercial grower sell marijuana directly
to a licensed medical marijuana patient or licensed medical
marijuana caregiver. A licensed medical marijuana commercial grower
may only sell at the wholesale level to a licensed medical marijuana
dispensary, a licensed medical marijuana commercial grower or a
licensed medical marijuana processor. If the federal government
lifts restrictions on buying and selling marijuana between states,
then a licensed medical marijuana commercial grower would be allowed
to sell and buy marijuana wholesale from, or to, an out-of-state
wholesale provider. A licensed <u>medical marijuana</u> commercial grower
shall be required to complete a monthly yield and sales report to
the State Department of Health <u>Authority</u> . This report shall be due
on the fifteenth of each month and provide reporting on the previous
month. This report shall detail the amount of marijuana harvested
in pounds, the amount of drying or dried marijuana on hand, the
amount of marijuana sold to licensed processors in pounds, the
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.

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- D. There shall be no limits on how much marijuana a licensed medical marijuana commercial grower can grow.
- Beginning on the effective date of this act, licensed 6 medical marijuana commercial growers shall be authorized to package 7 and sell pre-rolled marijuana to licensed medical marijuana 9 dispensaries. The products described in this subsection shall 10 contain only the ground parts of the marijuana plant and shall not include marijuana concentrates or derivatives. The total net weight 11 12 of each pre-roll packaged and sold by licensed medical marijuana commercial growers shall not exceed one (1) gram. These products 13 must be tested, packaged and labeled in accordance with Oklahoma law 14 and rules promulgated by the State Commissioner of Health Authority. 15 SECTION 2. AMENDATORY 63 O.S. 2021, Section 427.14, is 16

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;

amended to read as follows:

4. Medical marijuana transporter; and

1	5. Medical marijuana testing laboratory.
2	B. The Oklahoma Medical Marijuana Authority, with the aid of
3	the Office of Management and Enterprise Services, shall develop a
4	website for medical marijuana business applications.
5	C. The Authority shall make available on its website in an
6	easy-to-find location, applications for a medical marijuana
7	business.
8	D. The 1. Except as provided in paragraph 2 of this
9	subsection, the annual, nonrefundable application fee for a medical
LO	marijuana business license shall be Two Thousand Five Hundred
L1	Dollars (\$2,500.00).
L2	2. The annual, nonrefundable application fee for a medical
L3	marijuana commercial grower shall be as follows:
L 4	a. For an indoor medical marijuana grow facility:
L5	(1) Tier 1: Up to one thousand six hundred sixty-
L 6	seven (1,667) square feet of canopy, the fee
L7	shall be Two Thousand Five Hundred Dollars
L8	<u>(\$2,500.00)</u>

(2) Tier 2: One thousand six hundred sixty-eight

(1,668) square feet of canopy to two thousand
four hundred ninety-nine (2,499) square feet of

canopy, the fee shall be calculated at One Dollar
and fifty cents (\$1.50) per square foot of

canopy,

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1	<u>(3)</u>	Tier 3: Two thousand five hundred (2,500) square
2		feet of canopy to four thousand nine hundred
3		ninety-nine (4,999) square feet of canopy, the
4		fee shall be calculated at One Dollar and fifty
5		cents (\$1.50) per square foot of canopy,
6	(4)	Tier 4: Five thousand (5,000) square feet of
7		canopy to nine thousand nine hundred ninety-nine
8		(9,999) square feet of canopy, the fee shall be
9		calculated at One Dollar and fifty cents (\$1.50)
10		per square foot of canopy,
11	<u>(5)</u>	Tier 5: Ten thousand (10,000) square feet of
12		canopy to nineteen thousand nine hundred ninety-
13		nine (19,999) square feet of canopy, the fee
14		shall be calculated at One Dollar and fifty cents
15		(\$1.50) per square foot of canopy,
16	(6)	Tier 6: Twenty thousand (20,000) square feet of
17		canopy to twenty-nine thousand nine hundred
18		ninety-nine (29,999) square feet of canopy, the
19		fee shall be calculated at One Dollar and fifty
20		cents (\$1.50) per square foot of canopy,
21	<u>(7)</u>	Tier 7: Thirty thousand (30,000) square feet of
22		canopy to forty-nine thousand nine hundred
23		ninety-nine (49,999) square feet of canopy, the
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1			fee shall be calculated at One Dollar and fifty
2			cents (\$1.50) 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			One Dollar and fifty cents (\$1.50) per square
6			foot of canopy,
7	<u>b.</u>	For	a greenhouse or a light deprivation medical
8		mari	juana grow facility:
9		(1)	Tier 1: Up to one thousand six hundred sixty-
10			seven (1,667) square feet of canopy, the fee
11			shall be Two Thousand Five Hundred Dollars
12			(\$2,500.00),
13		(2)	Tier 2: One thousand six hundred sixty-eight
14			(1,668) square feet of canopy to two thousand
15			four hundred ninety-nine (2,499) square feet of
16			canopy, the fee shall be calculated at One Dollar
17			and fifty cents (\$1.50) per square foot of
18			canopy,
19		(3)	Tier 3: Two thousand five hundred (2,500) square
20			feet of canopy to four thousand nine hundred
21			ninety-nine (4,999) square feet of canopy, the
22			fee shall be calculated at One Dollar and fifty
23			cents (\$1.50) per square foot of canopy,
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1	(4)	Tier 4: Five thousand (5,000) square feet of
2		canopy to nine thousand nine hundred ninety-nine
3		(9,999) square feet of canopy, the fee shall be
4		calculated at One Dollar and fifty cents (\$1.50)
5		per square foot of canopy,
6	<u>(5)</u>	Tier 5: Ten thousand (10,000) square feet of
7		canopy to nineteen thousand nine hundred ninety-
8		nine (19,999) square feet of canopy, the fee
9		shall be calculated at One Dollar and fifty cents
10		(\$1.50) per square foot of canopy,
11	<u>(6)</u>	Tier 6: Twenty thousand (20,000) square feet of
12		canopy to twenty-nine thousand nine hundred
13		ninety-nine (29,999) square feet of canopy, the
14		fee shall be calculated at One Dollar and fifty
15		cents (\$1.50) per square foot of canopy,
16	<u>(7)</u>	Tier 7: Thirty thousand (30,000) square feet of
17		canopy to forty-nine thousand nine hundred
18		ninety-nine (49,999) square feet of canopy, the
19		fee shall be calculated at One Dollar and fifty
20		cents (\$1.50) per square foot of canopy, and
21	(8)	Tier 8: Fifty thousand (50,000) square feet of
22		canopy and beyond, the fee shall be calculated at
23		One Dollar and fifty cents (\$1.50) per square
24		foot of canopy,

1	<u>C.</u>	For	an outdoor medical marijuana grow facility:
2		(1)	Tier 1: Up to eighty-three thousand three
3			hundred thirty-four (83,334) square feet of
4			canopy, the fee shall be Two Thousand Five
5			<pre>Hundred Dollars (\$2,500.00),</pre>
6		(2)	Tier 2: Eighty-three thousand three hundred
7			thirty-five (83,335) square feet of canopy to two
8			hundred seventeen thousand seven hundred ninety-
9			nine (217,799) square feet of canopy, the fee
10			shall be calculated at three cents (\$0.03) per
11			square foot of canopy,
12		(3)	Tier 3: Two hundred seventeen thousand eight
13			hundred (217,800) square feet of canopy to four
14			hundred thirty-five thousand five hundred ninety-
15			nine (435,599) square feet of canopy, the fee
16			shall be calculated at three cents (\$0.03) per
17			square foot of canopy,
18		(4)	Tier 4: Four hundred thirty-five thousand six
19			hundred (435,600) square feet of canopy to eight
20			hundred seventy-one thousand one hundred ninety-
21			nine (871,199) square feet of canopy, the fee
22			shall be calculated at three cents (\$0.03) per
23			square foot of canopy,
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1	<u>(5)</u>	Tier 5: Eight hundred seventy-one thousand two
2		hundred (871,200) square feet of canopy to one
3		million three hundred six thousand seven hundred
4		ninety-nine (1,306,799) square feet of canopy,
5		the fee shall be calculated at three cents
6		(\$0.03) per square foot of canopy,
7	<u>(6)</u>	Tier 6: One million three hundred six thousand
8		eight hundred (1,306,800) square feet of canopy
9		to one million seven hundred forty-two thousand
10		three hundred ninety-nine (1,742,399) square feet
11		of canopy, the fee shall be calculated at three
12		cents (\$0.03) per square foot of canopy,
13	<u>(7)</u>	Tier 7: One million seven hundred forty-two
14		thousand four hundred (1,742,400) square feet of
15		canopy to two million one hundred seventy-seven
16		thousand nine hundred ninety-nine (2,177,999)
17		square feet of canopy, the fee shall be
18		calculated at three cents (\$0.03) per square foot
19		of canopy, and
20	(8)	Tier 8: Two million one hundred seventy-eight
21		thousand (2,178,000) square feet of canopy and
22		beyond, the fee shall be calculated at three
23		cents (\$0.03) per square foot of canopy, or
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d. For a medical marijuana grow facility that produces

clones from nonflowering plants for retail sale, the

fee shall be Two Thousand Five Hundred Dollars

(\$2,500.00).

3. As used in this subsection:

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"canopy" means the total surface area within a a. cultivation area that is dedicated to the cultivation of flowering marijuana plants. The surface area of the plant canopy must be calculated in square feet and measured and must include all of the area within the boundaries where the cultivation of the flowering marijuana plants occurs. If the surface of the plant canopy consists of noncontiguous areas, each component area must be separated by identifiable boundaries. If a tiered or shelving system is used in the cultivation area, the surface area of each tier or shelf must be included in calculating the area of the plant canopy. Calculation of the area of the plant canopy may not include the areas within the cultivation area that are used to cultivate immature marijuana plants and seedlings, prior to flowering, and that are not used at any time to cultivate mature marijuana plants. If the flowering plants are vertically grown in cylinders, the square footage of the canopy shall be

1	measured by the circumference of the cylinder			
2	multiplied by the total length of the cylinder,			
3	b. "greenhouse" means a structure located outdoors that			
4	is completely covered by a material that allows a			
5	controlled level of light transmission, and			
6	c. "light deprivation" means a structure that has			
7	concrete floors and the ability to manipulate natura			
8	<u>light.</u>			
9	E. All applicants seeking licensure or licensure renewal as a			
10	medical marijuana business shall comply with the following general			
11	requirements:			
12	1. All applications for licenses and registrations authorized			
13	pursuant to this section shall be made upon forms prescribed by the			
14	Authority;			
15	2. Each application shall identify the city or county in whic			
16	the applicant seeks to obtain licensure as a medical marijuana			
17	business;			
18	3. Applicants shall submit a complete application to the			
19	Department Authority before the application may be accepted or			
20	considered;			
21	4. All applications shall be complete and accurate in every			
22	detail;			
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1	5. All applications shall include all attachments or
2	supplemental information required by the forms supplied by the
3	Authority;
4	6. All applications shall be accompanied by a full remittance
5	for the whole amount of the application fees. Application fees are
6	nonrefundable;
7	7. All applicants shall be approved for licensing review that,
8	at a minimum, meets the following criteria:
9	a. twenty-five (25) years of age or older,
10	b. if applying as an individual, proof that the applicant
11	is an Oklahoma resident pursuant to paragraph 11 of
12	this subsection,
13	c. if applying as an entity, proof that seventy-five
14	percent (75%) of all members, managers, executive
15	officers, partners, board members or any other form of
16	business ownership are Oklahoma residents pursuant to
17	paragraph 11 of this subsection,
18	d. if applying as an individual or entity, proof that the
19	individual or entity is registered to conduct business
20	in the State of Oklahoma,

disclosure of all ownership interests pursuant to the

Oklahoma Medical Marijuana and Patient Protection Act,

and

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- 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:

individual applicants applying on their own behalf, 1 a. individuals applying on behalf of an entity, 2 b. all principal officers of an entity, and 3 C. all owners of an entity as defined by the Oklahoma 4 d. 5 Medical Marijuana and Patient Protection Act; All applicable fees charged by the OSBI are the 6 responsibility of the applicant and shall not be higher than fees 7 charged to any other person or industry for such background checks; 8 9 In order to be considered an Oklahoma resident for purposes 10 of a medical marijuana business application, all applicants shall provide proof of Oklahoma residency for at least two (2) years 11 12 immediately preceding the date of application or five (5) years of 13 continuous Oklahoma residency during the preceding twenty-five (25) years immediately preceding the date of application. Sufficient 14 documentation of proof of residency shall include a combination of 15 the following: 16 an unexpired Oklahoma-issued driver license, 17 a. b. an Oklahoma identification card, 18 a utility bill preceding the date of application, 19 C. excluding cellular telephone and Internet bills, 20 d. a residential property deed to property in the State 21 of Oklahoma, and 22 23

1	e. a rental agreement preceding the date of application
2	for residential property located in the State of
3	Oklahoma.
4	Applicants that were issued a medical marijuana business license
5	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

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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.
- 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.

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- 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.
- 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
 - 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,
 - 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,

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- 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. SECTION 3. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval. COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS April 13, 2022 - DO PASS