

OKLAHOMA STATE QUESTION 788

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 420 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

1. Consume marijuana legally;
2. Legally possess up to three (3) ounces of marijuana on their person;
3. Legally possess six (6) mature marijuana plants;
4. Legally possess six (6) seedling plants;
5. Legally possess one (1) ounce of concentrated marijuana;
6. Legally possess seventy-two (72) ounces of edible marijuana; and
7. Legally possess up to eight (8) ounces of marijuana in their residence.

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

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

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

E. A temporary license application will also be available on the Oklahoma Department of Health website. A temporary medical marijuana license will be granted to any medical marijuana license holder from other states, provided that the state has a state regulated medical marijuana program, and the applicant can prove they are a member of such. Temporary licenses will be issued for thirty (30) days. The cost for a temporary license shall be One Hundred Dollars (\$100.00). Renewal will be granted with resubmission of a new application. No additional criteria will be required.

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

G. The Oklahoma State Department of Health shall review the medical marijuana application, approve/reject the application, and mail the applicant's approval or rejection letter (stating reasons for rejection) to the applicant within fourteen (14) days of receipt of the application. Approved applicants will be issued a medical marijuana license which will act as proof of their

Comment [GJA1]: CONCERNS:
#1 There is no limit on THC potency.
#2 There is no regulation on media and advertising to youth.
#3 There is no limit on the number of Grower, Processor and Retail licenses the State will allow.
#4 A physician is not required to say the type of marijuana to use, how often, at what potency, etc. like he/she would with other medications. The Physician simply has to sign an application recommending its potential benefits.

Comment [GJA2]: Contradiction: Conservatively assuming that each mature plant yields .5 pound of marijuana X 6 plants = 3 pounds or 48oz. of marijuana. Upon harvesting, one would be in violation of #7 which says you can only have 8 oz. in your residence.

Comment [GJA3]: One card holder may possess ALL items at any given time; not just one or the other.

Comment [GJA4]: Does not specify positions needed, qualifications, etc.

Comment [GJA5]: Discrepancy in wording: they used "packagers" here but use the word "processor" in all other areas of the document.

Comment [GJA6]: Timeline does not add up: Applications must be available on day 30 of initiative passage: July 26th (Section 1, Paragraph D) then 14 days later applications must be approved: August 9th (Section 1, Paragraph G) (i.e. potentially day 44), yet the Regulatory Board who will be doing the application receiving/approving has 60 days from passage to be established: August 24th (Section 1, Paragraph C).

Comment [GJA7]: This 2 year expiration date means a Physician cannot say a sooner expiration date (i.e. I broke my arm and my expiration date is in 6 months when pain has subsided).

Comment [GJA8]: There is no uniform system to verify license authenticity. Concerns: Fake ID's, reciprocity, etc.

Comment [GJA9]: Can an inmate in a state, city or county (not federal because still federally illegal) jail qualify? How can you deny them their "medicine"? SQ788 dictates conviction limits for industry licenses but not for individual licenses.

Comment [GJA10]: "Other accepted method" is too vague.

Comment [GJA11]: Does not specify the information that will be included on the actual license. Is it like a driver's license or ID (i.e. demographics, height, weight, age, the license ID number)

approved status. Applications may only be rejected based on applicant not meeting stated criteria or improper completion of the application.

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

1. a digital photograph of the license holder;
2. the expiration date of the license;
3. the county where the card was issued; and
4. a unique 24 character identification number assigned to the license.

I. The Department of Health will make available, both on its website, and through a telephone verification system, an easy method to validate a medical license holders authenticity by the unique 24 character identifier.

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

K. A caregiver license will be made available for qualified caregivers of a medical marijuana license holder who is homebound. The caregiver license will give the caregiver the same rights as the medical license holder. Applicants for a caregiver license will submit proof of the medical marijuana license holder's license status and homebound status, that they are the designee of the medical marijuana license holder, must submit proof that the caregiver is age eighteen (18) or older, and must submit proof the caregiver is an Oklahoma resident. This will be the only criteria for a caregiver license.

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

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

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 421 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana dispensary license. The application fee shall be Two Thousand Five Hundred

Comment [GJA12]: There is no documentation as to which Physicians are making recommendations (i.e. similar to the PMP, which Physicians are "over recommending."

Comment [GJA13]: Will law enforcement be able to call and verify the license? Or will this be a HIPPA violation?

Comment [GJA14]: So is this going to be treated like HIPPA?

Comment [GJA15]: Caregiver has the same rights as medical license holder which includes CONSUMPTION according to (788, Sec. 1, Paragraph A, number 1).

Comment [GJA16]: Concerns: Does not limit the number of persons one can be a caregiver for and does not specify how to prove "homebound status" (i.e. legal guardianship, physician documented, etc.)

Comment [GJA17]: This brings up concern for parents sharing joint custody if only a parent needs to approve use.

Comment [GJA18]: In any future legislation PCDFC suggests restricting who can recommend marijuana to OK Board Certified Physicians specializing in said illness (i.e. cancer=oncologist, PMS=gynecologist, seizure=Neurologist, etc.)

Comment [GJA19]: This means that ANY condition ranging from life threatening to general pain (i.e. PMS, headache, insomnia, broken finger) qualifies someone to use marijuana for a 2 year time period (see comment GJA7 above).

Comment [GJA20]: Concern: This is also supposed to be how they recommend other medications such as opioids and yet we have issues with overprescribing.

Comment [GJA21]: Why would any county or city need to increase the amount of marijuana one card holder can have? What makes a county or city knowledgeable enough to decide "medicine" quantities for their citizens. For example: Ada city council can decide if patients living within the city limits need more "medicine."

Comment [GJA22]: Again, timeline discrepancy because the regulatory board will not be up and running until day 60 after passage. See comment GJA6 above.

Dollars (\$2,500.00) and a method of payment will be provided on the website. Retail applicants must all be Oklahoma state residents. Any entity applying for a retail license must be owned by an Oklahoma state resident and must be registered to do business in Oklahoma. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

Comment [GJA23]: ONETIME FEE. SQ788 does not establish an expiration date for the license.

Comment [GJA24]: How many retail businesses can one person have? I can own 5 stores, all with different names and all registered to do business in OK?

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

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, 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;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a medical marijuana dispensary license.

Comment [GJA25]: How?

Comment [GJA26]: If someone from out of state comes into Oklahoma and creates multiple MJ businesses, is it within their individual businesses that the percentage of ownership cannot exceed 25%? Or is it cannot exceed 25% ownership of all businesses combined?

C. Retailers will be required to complete a monthly sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail the weight of marijuana purchased at wholesale and the weight of marijuana sold to card holders, and account for any waste. The report will show total sales in dollars, tax collected in dollars, and tax due in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A retailer will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

Comment [GJA27]: Retail sales is the ONLY place TAXES will be collected. Growers and processors are TAX FREE (788, Sec. 3, Paragraph C) & (788, Sec. 4, Paragraph C).

Comment [GJA28]: This is way too vague! What constitutes a "vague discrepancy"?

D. Only a licensed medical marijuana retailer may conduct retail sales of marijuana, or marijuana derivatives in the form provided by licensed processors, and these products can only be sold to a medical marijuana license holder or their caregiver. Penalties for fraudulent sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 422 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health will within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a

Comment [GJA29]: See comment GJA6 above

commercial grower license. The application fee will be Two Thousand Five Hundred Dollars (\$2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health has two (2) weeks to review application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

Comment [GJA30]: ONETIME FEE. SQ788 does not establish an expiration date for the license.

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

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, 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;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a commercial grower license.

Comment [GJA31]: How?

Comment [GJA32]: See comment GJA26

C. A licensed commercial grower may sell marijuana to a licensed retailer, or a licensed packager. Further, these sales will be considered wholesale sales and not subject to taxation. Under no circumstances may a licensed commercial grower sell marijuana directly to a medical marijuana license holder. A licensed commercial grower may only sell at the wholesale level to a licensed retailer or a licensed processor. If the federal government lifts restrictions on buying and selling marijuana between states, then a licensed commercial grower would be allowed to sell and buy marijuana wholesale from, or to, an out of state wholesale provider. A licensed commercial grower will be required to complete a monthly yield and sales report to the Oklahoma Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana harvested in pounds, the amount of drying or dried marijuana on hand, the amount of marijuana sold to processors in pounds, the amount of waste in pounds, and the amount of marijuana sold to retailers in lbs. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed grower will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting or sales occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

Comment [GJA33]: No tax revenue will be generated from commercial businesses, only from Retail dispensary Sales (See comment GJA56).

Comment [GJA34]: See comment GJA28 above

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

Comment [GJA35]:
No limit on acreage
No limit on water, electricity or other resources
No limit on location to schools or other properties
Etc.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 423 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma State Department of Health shall within thirty (30) days of passage of this initiative, make available, on their website, in an easy to find location, an application for a medical marijuana processing license. The application fee shall be Two Thousand Five Hundred Dollars (\$2,500.00) and methods of payment will be provided on the website. The Oklahoma State Department of Health shall have two (2) weeks to review the application, approve or reject the application, and mail the approval/rejection letter (if rejected, stating reasons for rejection) to the applicant.

Comment [GJA36]: See comment GJA6 above

Comment [GJA37]: ONETIME FEE. SQ788 does not establish an expiration date for the license.

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

1. Applicant must be age twenty-five (25) or older;
2. Any applicant, 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;
6. All applicants must disclose all ownership;
7. Applicant(s) with only nonviolent felony conviction(s) in the last two (2) years, any other felony conviction in 5 (years), inmates, or any person currently incarcerated may not qualify for a medical marijuana processing license.

Comment [GJA38]: How?

Comment [GJA39]: See comment GJA26

C. A licensed processor may take marijuana plants and distill or process these plants into concentrates, edibles, and other forms for consumption. As required by subsection D of this section, the Oklahoma State Department of Health will, within sixty (60) days of passage of this initiative, make available a set of standards which will be used by licensed processors in the preparation of edible marijuana products. This should be in line with current food preparation guidelines and no excessive or punitive rules may be established by the Oklahoma State Department of Health. Once a year, the Oklahoma State Department of Health may inspect a processing operation and determine its compliance with the preparation standards. If deficiencies are found, a written report of deficiency will be issued to the processor. The processor will have one (1) month to correct the deficiency or be subject to a fine of Five Hundred Dollars (\$500.00) for each deficiency. A licensed processor may sell marijuana products it creates to a licensed retailer, or any other licensed processor. Further, these sales will be considered wholesale sales and not subject to taxation. Under no circumstances may a licensed processor sell marijuana, or any marijuana product, directly to a medical marijuana license holder. However, a licensed processor may process cannabis into a concentrated form, for a medical license holder, for a fee. Processors will be required to complete a monthly yield and sales report to the Oklahoma State Department of Health. This report will be due on the 15th of each month and provide reporting on the previous month. This report will detail amount of marijuana purchased in pounds, the amount of marijuana cooked or processed in pounds, and the amount of waste in pounds. Additionally, this report will show total wholesale sales in dollars. The Oklahoma State

Comment [GJA40]: So by day 30 after passage the Dept. of Health will appoint a board of 12 "medical marijuana experts" and THEY will decide the food safety standards (SQ788, Sec. 4, Paragraph D). Once the standards are created, then the Dept. of Health will make them available on their website by day 60 after passage.

Comment [GJA41]: No tax revenue will be generated from processing businesses, only from Retail dispensary Sales (See comment GJA56).

Comment [GJA42]: A processor may sell marijuana concentrates DIRECTLY TO a license holder (bypassing the retail shop) and charge license holder fee (BYPASSING THE TAXES).

Department of Health will have oversight and auditing responsibilities to ensure that all marijuana being grown is accounted for. A licensed processor will only be subject to a penalty if a gross discrepancy exists and cannot be explained. Penalties for fraudulent reporting occurring within any 2 year time period will be an initial fine of Five Thousand Dollars (\$5,000.00) (first) and revocation of licensing (second).

Comment [GJA43]: Define GROSS DISCREPENCY?

D. The inspection and compliance of processors producing products with marijuana as an additive. The Oklahoma State Department of Health will be compelled to, within thirty (30) days of passage of this initiative, appoint a board of twelve (12) Oklahoma residents, who are marijuana industry experts, to create a list of food safety standards for processing and handling medical marijuana in Oklahoma. These standards will be adopted by the agency and the agency can enforce these standards for processors. The agency will develop a standards review procedure and these standards can be altered by calling another board of twelve (12) Oklahoma marijuana industry experts. A signed letter of twenty (20) operating processors would constitute a need for a new board and standard review.

Comment [GJA44]:
What constitutes a marijuana industry expert?

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

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

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 424 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A marijuana transportation license will be issued to qualifying applicants for a marijuana retail, growing, or processing license. The transportation license will be issued at the time of approval of a retail, growing, or processing license.

Comment [GJA45]: Suggestion: Vehicles used to transport should be registered as such with the DMV.

B. A transportation license will allow the holder to transport marijuana from an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processor facility to an Oklahoma licensed medical marijuana retailer, licensed growing facility, or licensed processing facility.

C. All marijuana or marijuana products shall be transported in a locked container and clearly labeled "Medical Marijuana or Derivative".

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 425 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No school or landlord may refuse to enroll or lease to and may not otherwise penalize a person solely for his status as a medical marijuana license holder, unless failing to do so would

imminently cause the school or landlord to lose a monetary or licensing related benefit under federal law or regulations.

Comment [GJA46]: What does this mean? So a school who received federal grant monies would be able to refuse enrollment of someone with a medical marijuana license? Or would that "imminently cause" the school to loose federal funding?

B. Unless a failure to do so would cause an employer to imminently lose a monetary or licensing related benefit under federal law or regulations, an employer may not discriminate against a person in hiring, termination or imposing any term or condition of employment or otherwise penalize a person based upon either:

1. The person's status as a medical marijuana license holder; or

Comment [GJA47]: How would an employer find this out? If we are treating this like medicine, an employer cannot ask about medical use due to privacy violations. See comment GJA14 above.

2. Employers may take action against a holder of a medical marijuana license holder if the holder uses or possesses marijuana while in the holder's place of employment or during the hours of employment. Employers may not take action against the holder of a medical marijuana license solely based upon the status of an employee as a medical marijuana license holder or the results of a drug test showing positive for marijuana or its components.

Comment [GJA48]:
A person CAN BE UNDER THE INFLUENCE OF MARIUANA at their place of employment.

The employer is authorized to take action if the holder uses the marijuana or possesses it during work hours or at the place of employment.

C. For the purposes of medical care, including organ transplants, a medical marijuana license holder's authorized use of marijuana must be considered the equivalent of the use of any other medication under the direction of a physician and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

Comment [GJA49]: Employers MAY NOT take action based on a positive drug test for Marijuana.

Comment [GJA50]:
A physician making a recommendation one time within a two year time period does not constitute being under the direction of a Physician.

D. No medical marijuana license holder may be denied custody of or visitation or parenting time with a minor, and there is no presumption of neglect or child endangerment for conduct allowed under this law, unless the person's behavior creates an unreasonable danger to the safety of the minor.

Comment [GJA51]:
What constitutes an unreasonable danger?

E. No person holding a medical marijuana license may unduly be withheld from holding a state issued license by virtue of their being a medical marijuana license holder. This would include such things as a concealed carry permit.

Comment [GJA52]: Furthermore, this type of language should be included under the employment area of this initiative. Since someone may be under the influence while on the job.

F. No city or local municipality may unduly change or restrict zoning laws to prevent the opening of a retail marijuana establishment.

Comment [GJA53]: Technically you could get a concealed carry permit but would still be in violation of federal law that forbids possession of controlled substances (which marijuana still is federally, schedule I) while in possession of a firearm.

G. The location of any retail marijuana establishment is specifically prohibited within one thousand (1,000) feet from any public or private school entrance.

Comment [GJA54]: Unlimited retail establishments within a retail zoned area.

Comment [GJA55]: 1000 feet from the entrance NOT the property line of the school.

H. Research will be provided under this law. A researcher may apply to the Oklahoma Department of Health for a special research license. That license will be granted, provided the applicant meet the criteria listed under Section 421. B. Research license holders will be required to file monthly consumption reports to the Oklahoma Department of Health with amounts of marijuana used for research.

What about certain businesses? Like the distance from a substance abuse treatment facility? Or distance from a public park or playground?

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 426 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The tax on retail medical marijuana sales will be established at seven percent (7%) of the gross amount received by the seller.

Comment [GJA56]: Again tax revenue will only come from retail dispensaries not growers or processors.

B. This tax will be collected at the point of sale. Tax proceeds will be applied primarily to finance the regulatory office.

Comment [GJA57]:
The regulatory office will be covered first.

C. If proceeds from the levy authorized by subsection A of this section exceed the budgeted amount for running the regulatory office, any surplus shall be apportioned with seventy-five percent (75%) going to the General Revenue Fund and may only be expended for common education. Twenty-five percent (25%) shall be apportioned to the Oklahoma State Department of Health and earmarked for drug and alcohol rehabilitation.

Comment [GJA58]:
IF! IF! IF!
IF any tax money remains....

SECTION 8. The provisions hereof are severable, and if any part or provision hereof shall be void, invalid, or unconstitutional, the decision of the court so holding shall not affect or impair any of the remaining parts or provision hereof, and the remaining provisions hereof shall continue in full force and effect.