

THE OKLAHOMA CANNABIS LIBERTY ACT (8/26/21)

SECTION 1. Safeguarding Medical Marijuana

- (1) Nothing in this Article may be construed to limit or abrogate any privilege, right, immunity or defense of medical marijuana patient licensees, caregiver licensees, or medical marijuana business licensees.

SECTION 2. Personal Rights and Protections

- (1) It shall be lawful for all persons twenty-one (21) years of age and older to grow, purchase, transport, receive, share, gift, prepare and consume marijuana and marijuana products. It shall be lawful for all persons twenty-one (21) years of age and older to possess up to: twelve (12) marijuana plants and the marijuana harvested therefrom; one (1) ounce of concentrated marijuana; seventy-two (72) ounces of topical marijuana; seventy-two (72) ounces of edible marijuana; eight (8) ounces of suppository marijuana; and eight (8) ounces of commercially sold or gifted marijuana. These amounts are cumulative. The legislature is permitted to increase these quantities as well as permit other forms of marijuana.
- (2) It shall be lawful for all persons twenty-one (21) years of age and older to purchase, possess and use marijuana paraphernalia.
- (3) No person shall be subject to arrest, prosecution or penalty in any manner under state law or municipal or county ordinance or resolution including without limitation a civil penalty or disciplinary action by a business, occupational or professional licensing board or bureau, solely on the basis of conduct permitted under this Article.
- (4) No person shall be denied any form of healthcare, housing, employment, public assistance, public benefit, parental right, educational opportunity, extracurricular activity, licensure or licensed activity including but not limited to firearm use, firearm ownership and driving a motor vehicle solely on the basis of conduct permitted under this Article unless failure to do so would result in substantial imminent harm under federal law or regulations.
- (5) No test which identifies the presence of THC metabolites in a person's blood, urine, hair, hair follicle, or other body fluids or tissues shall be used as evidence of impairment for the purposes of denying any form of healthcare, housing, employment, public assistance, license or licensed activity, public benefit, parental right, educational opportunity, or extracurricular activity.
- (6) No test which identifies the presence of THC metabolites or active THC in a person's blood, urine, hair, hair follicle, or other body fluids or tissues shall be used as dispositive for the determination of any violation of federal or state law or local ordinance.

- (7) No employer may refuse to hire, discipline, discharge or otherwise penalize an applicant or employee solely on the basis of conduct permitted by this Article. Nothing in this Article shall be construed to disallow workplace policies which prohibit the use or being under the influence of marijuana during a work shift.
- (8) Nothing in this Article shall prohibit the use of tests assessing the presence of active THC for the purpose of determining impairment. However, there is no presumption of impairment or intoxication solely on the basis of the use of marijuana, including the presence of active THC or THC metabolites. Proof of impairment requires confirmation of impairment through the use of cognitive, kinetic and/or behavioral evaluations.
- (9) No person currently under parole, probation, or other state supervision, or released awaiting trial or other hearing, shall be punished, have their parole, probation or bail revoked, or otherwise be penalized solely on the basis of conduct permitted under this Article.
- (10) No person shall be subject to increased punishment for any crime or civil infraction on the basis of any conduct permitted under this Article.
- (11) For the purposes of medical care, including organ transplants, marijuana use does not constitute the use of an illicit substance or otherwise disqualify a marijuana user from medical care.
- (12) It is within the standard of care for a medical practitioner with appropriate prescriptive authority to prescribe scheduled medications, including opioids and benzodiazepines, without having to modify the patient's treatment solely on the basis of conduct permitted under this Article.
- (13) No person engaged in conduct permitted under this Article shall be denied the right to own, purchase, possess or use a firearm, ammunition, firearm accessories or any related firearm license or certification solely based upon conduct permitted under this Article.
- (14) No conduct permitted under this Article shall constitute a reasonable articulable suspicion of any civil infraction or criminal act or be the sole basis for detention, search, or arrest; notwithstanding when law enforcement is investigating with a reasonable articulable suspicion that a person is operating a motor vehicle, motorboat, or other motorized form of transport while impaired.
- (15) Nothing in this Article shall be construed to prohibit landlords from restricting homegrows or indoor smoking or vaping of marijuana and marijuana products in a private residence, except that a lease agreement shall not prohibit a tenant from lawfully possessing and consuming marijuana or marijuana products by means other than smoking or vaping. Nothing in this Article shall be construed to restrict business owners from prohibiting smoking or vaping of marijuana and marijuana products on their premises.

- (16) Municipal and county governing bodies shall not require any additional licensing, permits or fees or otherwise restrict or interfere with the rights of persons to possess, purchase, transport, receive, share, gift, prepare, consume, cultivate, homegrow or transport marijuana within the quantities permitted under this Article.
- (17) No ordinance, regulation or statute relating to the vaporization or smoking of cannabis shall be more restrictive than those relating to tobacco use.

SECTION 3. Business Licenses

- (1) Thirty (30) days after the passage of this Article, it shall be lawful for businesses with a valid dispensary license from the agency responsible for regulating marijuana to sell marijuana and marijuana products not only to medical marijuana patient licensees and caregiver licensees, but also to any person twenty-one (21) years of age and older.
- (2) There shall be no further licenses, fees or registrations required by any state agency, county or municipal government in order for medical marijuana business licensees to engage in business activities of the same business license type and at the same location for conduct related to this Article, nor shall there be additional licenses, fees or registrations required by any state agency, county or municipal government in order for business licensees engaged in activities related to this Article to engage in business activities of the same business license type and at the same location for conduct specific to medical marijuana.

SECTION 4. Taxation and Revenue

- (1) The excise tax rate for marijuana and marijuana products purchased by persons without a valid Oklahoma medical marijuana patient license or Oklahoma caregiver license shall be seven percent (7%). This rate of seven percent (7%) may be lowered by the Oklahoma State Legislature. This tax shall be collected at the point of retail sale.
- (2) Once the revenue generated from the excise tax indicated in the preceding paragraph exceeds twenty million dollars (\$20,000,000), the excise tax rate for marijuana and marijuana products purchased by an Oklahoma medical marijuana patient licensee or Oklahoma caregiver licensee shall thereafter be reduced to zero percent (0%).
- (3) The Oklahoma Tax Commission shall be responsible for collecting this tax and for directing it to the fund managed by the agency responsible for regulating marijuana. Revenue in this fund shall first provide for the operational costs of the agency responsible for the regulation of marijuana. Expenditures listed in paragraphs 4-8 of this section, shall be calculated from the balance after the budgeted amount for the Authority's operational costs have been subtracted.
- (4) In addition to all other expenditures of marijuana licensing and sales revenue authorized in law, ten percent (10%) of the gross collection of the excise tax on retail marijuana sales as permitted by this Article shall be transferred to the municipalities (or counties,

for unincorporated land) where the sales occurred. Any unused amount from this allocation shall at the end of each fiscal year be transferred to the State General Revenue Fund.

- (5) In addition to all other expenditures of marijuana licensing and sales revenue authorized in law, ten percent (10%) percent of the gross collection of the excise tax on retail marijuana sales shall be made available for research grants focusing on the medical benefits of marijuana, the societal impact of the 'war on drugs,' and the societal impact of marijuana legalization. Any unused amount from this allocation shall at the end of each fiscal year be transferred to the State General Revenue Fund.
- (6) In addition to all other expenditures of marijuana licensing and sales revenue authorized in law, ten percent (10%) percent of the gross collection of the excise tax on retail marijuana sales shall be made available to agencies and not-for-profit organizations, whether government or community-based, to increase access to evidence-based low-barrier drug addiction treatment and to support job placement, housing, and counseling for those with substance use disorders. Any unused amount from this allocation shall at the end of each fiscal year be transferred to the State General Revenue Fund.
- (7) In addition to all other expenditures of marijuana licensing and sales revenue authorized in law, ten percent (10%) of the gross collection of the excise tax on retail marijuana sales as permitted by this Article shall be transferred to the Department of Human Services to provide for Home and Community-Based Services Waiver Programs. Any unused amount from this allocation shall at the end of each fiscal year be transferred to the State General Revenue Fund.
- (8) In addition to all other expenditures of marijuana licensing and sales revenue authorized in law, five percent (5%) of the gross collection of the excise tax on retail marijuana sales shall be used to fund means-tested grants to pay for the expungement program outlined in this Article. Any unused amount from this allocation shall at the end of each fiscal year be transferred to the State General Revenue Fund.
- (9) All taxes and fees collected by the agency responsible for the regulation of marijuana, not utilized for the purposes specified in this Article shall transfer to the State General Revenue Fund with seventy-five percent (75%) allocated for common education.

SECTION 5. Retroactivity

- (1) A person currently serving a sentence for a conviction, whether by trial or by plea of guilty or nolo contendere, who would not have been guilty of an offense or who would have been guilty of a lesser offense under this Article had it been in effect at the time of the offense, may file a petition for resentencing, reversal of conviction and dismissal of case, or modification of judgment and sentence before the trial court that entered the judgment of conviction in the person's case to request resentencing, modification, or reversal.

- (2) Upon receiving a petition, the court shall presume the petitioner satisfies the criteria for resentencing, modification, or reversal and without delay resentence or reverse the conviction as legally invalid, or modify the judgment and sentence.
- (3) A person who has completed his or her sentence for a conviction, whether by trial or plea of guilty or nolo contendere, who would not have been guilty of an offense or who would have been guilty of a lesser offense under this Article had it been in effect at the time of the offense, may file a petition before the trial court that entered the judgment of conviction in the person's case to have the conviction dismissed, expunged, and vacated as legally invalid.
- (4) Upon receiving a petition, the court shall presume the petitioner satisfies the criteria for dismissal, expungement and vacating, and without delay resentence or reverse the conviction as legally invalid, or modify the judgment and sentence.
- (5) Nothing in this section shall be construed to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant. The provisions of this section shall apply equally to juvenile cases if the juvenile would have been guilty of a lesser offense under this Article. A completed expungement shall automatically restore the person's rights to possess and use firearms. A completed expungement of marijuana related felony convictions shall also automatically restore the person's right to vote.
- (6) Nothing in this section shall be construed as limiting the authority of the Legislature to make the process for ensuring retroactive application of this Article less burdensome or automatic for persons currently serving sentences or under criminal justice supervision or who have been previously convicted for conduct now permitted or reclassified under this Article, or to reduce or eliminate civil or criminal penalties for any cannabis-related conduct beyond what is set forth in this Article.

SECTION 6. Relation to Federal Law

- (1) Should the federal government legalize marijuana, then the State of Oklahoma shall have no restrictions on such conduct greater than the restrictions set under federal law.
- (2) Should the federal government legalize marijuana, the possession quantities permitted in this Article shall be raised to the maximums permitted by federal law. Should the federal government legalize marijuana, but not set specific possession maximums, the legislature shall determine maximum limits but they shall not be below the maximums indicated in this Article.
- (3) Should either federal action be taken to allow for the interstate transfer of marijuana or the United States Department of Justice issues an opinion or memorandum allowing or tolerating the interstate transfer of marijuana, the transfer of marijuana between this state and other states shall be permitted. Such transfers must be in compliance with the laws and regulations of both the origin and destination states.

SECTION 7. Judicial Review

- (1) Any rule or regulation adopted pursuant to this Article must comply with the Oklahoma Administrative Procedures Act. Any person aggrieved by a final agency order is entitled to seek judicial review in accordance with Oklahoma law. If the regulatory agency fails to timely promulgate rules required by this Article, any resident of the state may commence a mandamus action in district court to compel performance by the regulatory agency in accordance with this Article.

SECTION 8. Severability

- (1) 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.

SECTION 9. Effective Date

- (1) This Article shall become effective immediately upon its passage.

SECTION 10. Definitions

- (1) “Active THC” means unmetabolized tetrahydrocannabinol, as present in a person’s body fluids or tissues, in contrast to its metabolites.
- (2) “Agency responsible for regulating marijuana” means the Oklahoma Medical Marijuana Authority or its successor(s) as established in law.
- (3) “Marijuana” means the flower of a female cannabis plant that contains more THC than on a dry weight basis than what is considered Hemp by federal law.
- (4) “Marijuana Product” means a product that contains tetrahydrocannabinol extracted from marijuana by physical or chemical means.
- (5) “Person” means a natural person and does not include any partnership, trust, estate, corporation, association, or any other non-natural person as created by operation of law.
- (6) “THC” means tetrahydrocannabinol, the principal psychoactive constituent of cannabis, along with its double bond isomers and stereoisomers. For the purposes of this Article, THC excludes tetrahydrocannabinols approved for medical use by the FDA.
- (7) “THC metabolite” means a substance formed through the metabolization of THC.