An Act

ENROLLED SENATE
BILL NO. 913

By: Jech of the Senate

and

Moore of the House

An Act relating to medical marijuana growing operations; amending 63 O.S. 2021, Section 427.14, as last amended by Section 4, Chapter 332, O.S.L. 2022 (63 O.S. Supp. 2022, Section 427.14), which relates to the medical marijuana business license; requiring bond to be submitted during application process if participating in growing operations; requiring bond to be filed with the Oklahoma Medical Marijuana Authority for designated area of commercial growing operations; providing minimum amount; allowing Authority to require additional coverage; requiring amount should be sufficient in event of loss of license; allowing additional agencies to recall the bond under certain circumstances; providing an exception; providing for codification; and declaring an emergency.

SUBJECT: Medical marijuana bond requirement

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

SECTION 1. AMENDATORY 63 O.S. 2021, Section 427.14, as last amended by Section 4, Chapter 332, O.S.L. 2022 (63 O.S. Supp. 2022, 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;

3. Medical marijuana dispensary;

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. 1. The annual, nonrefundable fee for a medical marijuana transporter license shall be Two Thousand Five Hundred Dollars ($2,500.00).

2. The initial fee for a medical marijuana commercial grower license shall be calculated based upon the total amount of square feet of canopy or acres the grower estimates will be harvested for the year. The annual, nonrefundable license fee shall be based upon the total amount of square feet of canopy harvested by the grower during the previous twelve (12) months. The amount of the fees shall be determined as follows:

a. For an indoor, greenhouse, or light deprivation medical marijuana grow facility:

(1) Tier 1: Up to ten thousand (10,000) square feet of canopy, the fee shall be Two Thousand Five Hundred Dollars ($2,500.00),

(2) Tier 2: Ten thousand one (10,001) square feet of canopy to twenty thousand (20,000) square feet of canopy, the fee shall be Five Thousand Dollars ($5,000.00),

(3) Tier 3: Twenty thousand one (20,001) square feet of canopy to forty thousand (40,000) square feet of canopy, the fee shall be Ten Thousand Dollars ($10,000.00),

(4) Tier 4: Forty thousand one (40,001) square feet of canopy to sixty thousand (60,000) square feet of canopy, the fee shall be Twenty Thousand Dollars ($20,000.00),

(5) Tier 5: Sixty thousand one (60,001) square feet of canopy to eighty thousand (80,000) square feet of canopy, the fee shall be Thirty Thousand Dollars ($30,000.00),

(6) Tier 6: Eighty thousand one (80,001) square feet of canopy to ninety-nine thousand nine hundred ninety-nine (99,999) square feet of canopy, the fee shall be Forty Thousand Dollars ($40,000.00), and

(7) Tier 7: One hundred thousand (100,000) square feet of canopy and beyond, the fee shall be Fifty Thousand Dollars ($50,000.00), plus an additional twenty-five cents ($0.25) per square foot of canopy over one hundred thousand (100,000) square feet.

b. For an outdoor medical marijuana grow facility:

(1) Tier 1: Up to two and one-half (2 1/2) acres, the fee shall be Two Thousand Five Hundred Dollars ($2,500.00),

(2) Tier 2: Two and one-half (2 1/2) acres up to five (5) acres, the fee shall be Five Thousand Dollars ($5,000.00),

(3) Tier 3: Five (5) acres up to ten (10) acres, the fee shall be Ten Thousand Dollars ($10,000.00),

(4) Tier 4: Ten (10) acres up to twenty (20) acres, the fee shall be Twenty Thousand Dollars ($20,000.00),

(5) Tier 5: Twenty (20) acres up to thirty (30) acres, the fee shall be Thirty Thousand Dollars ($30,000.00),

(6) Tier 6: Thirty (30) acres up to forty (40) acres, the fee shall be Forty Thousand Dollars ($40,000.00),

(7) Tier 7: Forty (40) acres up to fifty (50) acres, the fee shall be Fifty Thousand Dollars ($50,000.00), and

(8) Tier 8: If the amount of acreage exceeds fifty (50) acres, the fee shall be Fifty Thousand Dollars ($50,000.00) plus an additional Two Hundred Fifty Dollars ($250.00) per acre.

c. For a medical marijuana commercial grower that has a combination of both indoor and outdoor growing facilities at one location, the medical marijuana commercial grower shall be required to obtain a separate license from the Authority for each type of grow operation and shall be subject to the licensing fees provided for in subparagraphs a and b of this paragraph.

d. As used in this paragraph:

(1) "canopy" means the total surface area within 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 measured by the circumference of the cylinder multiplied by the total length of the cylinder,

(2) "greenhouse" means a structure located outdoors that is completely covered by a material that allows a controlled level of light transmission, and

(3) "light deprivation" means a structure that has concrete floors and the ability to manipulate natural light.

3. The annual, nonrefundable license fee for a medical marijuana processor license shall be determined as follows:

a. Tier 1: Zero (0) to ten thousand (10,000) pounds of biomass or production or use of up to one hundred (100) liters of cannabis concentrate, the annual fee shall be Two Thousand Five Hundred Dollars ($2,500.00),

b. Tier 2: Ten thousand one (10,001) pounds to fifty thousand (50,000) pounds of biomass or production or use from one hundred one (101) to three hundred fifty (350) liters of cannabis concentrate, the annual fee shall be Five Thousand Dollars ($5,000.00),

c. Tier 3: Fifty thousand one (50,001) pounds to one hundred fifty thousand (150,000) pounds of biomass or production or use from three hundred fifty-one (351)

to six hundred fifty (650) liters of cannabis concentrate, the annual fee shall be Ten Thousand Dollars ($10,000.00),

d. Tier 4: One hundred fifty thousand one (150,001) pounds to three hundred thousand (300,000) pounds of biomass or production or use from six hundred fifty-one (651) to one thousand (1,000) liters of cannabis concentrate, the annual fee shall be Fifteen Thousand Dollars ($15,000.00), and

e. Tier 5: More than three hundred thousand one (300,001) pounds of biomass or production or use in excess of one thousand one (1,001) liters of cannabis concentrate, the annual fee shall be Twenty Thousand Dollars ($20,000.00).

For purposes of this paragraph only, if the cannabis concentrate is in nonliquid form, every one thousand (1,000) grams of concentrated marijuana shall be calculated as one (1) liter of cannabis concentrate.

4. The initial fee for a medical marijuana dispensary license shall be Two Thousand Five Hundred Dollars ($2,500.00). The annual, nonrefundable license fee for a medical marijuana dispensary license shall be calculated at ten percent (10%) of the sum of twelve (12) calendar months of the combined annual state sales tax and state excise tax of the dispensary. The minimum fee shall be not less than Two Thousand Five Hundred Dollars ($2,500.00) and the maximum fee shall not exceed Ten Thousand Dollars ($10,000.00).

5. The annual, nonrefundable license fee for a medical marijuana testing laboratory shall be Twenty Thousand Dollars ($20,000.00).

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 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;

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

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.

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; and

15. All applicants for a medical marijuana business license seeking to operate a commercial grow shall file along with their application a bond as prescribed in Section 2 of this act.

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.

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 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 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 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 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 Authority,

e. knowingly or intentionally refusing to permit the 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 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 Authority in a full, faithful, truthful and fair manner. The 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 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 Authority.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 427.26 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. It shall be unlawful for any holder of a medical marijuana business license pursuant to Section 427.14 of Title 63 of the Oklahoma Statutes to engage in any commercial growing operations in this state without acquiring a bond. The bond shall cover that area

of land within the permit area upon which the business licensee will initiate and conduct commercial growing operations.

B. Every applicant for a commercial grower license or commercial grower licensee shall file with the Oklahoma Medical Marijuana Authority a bond satisfactory to the Authority and in the amount no less than Fifty Thousand Dollars ($50,000.00) for each license sought or held, with a surety company qualified to do business in this state as a surety. The bond shall be furnished to the state for the use of the state pursuant to the provisions of this act. The bond shall be conditional that the obligor will comply with the provisions of this act including, but not limited to, building codes, administrative rules, and other relevant laws, and all rules and regulations made pursuant to this act and will pay all amounts of money that may be due to the state during the time such bond is in effect.

C. The Authority or the Department of Environmental Quality may require a higher amount depending upon the reclamation requirements of the approved application. The amount shall reflect the probable difficulty of reclamation with consideration for such factors including, but not limited to, topography, hydrology, and revegetation potential. The amount of the bond for a commercial growing operation shall be sufficient to assure the completion of the reclamation plan if the work has to be performed by the Authority or the Department of Environmental Quality in the event of revocation of license.

D. An appropriate agency may recall the bond if the property has been abandoned, the Authority revokes the commercial growing operation's license, or in response to receiving notice of a violation of any law, regulation, policy, or ordinance necessitating remedial action. The bond shall be used to defray the cost of restoration of the property including, but not limited to, removing equipment, destruction of waste, remediation of environmental hazards, prohibiting public access, addressing improperly coded buildings, or determination of the final disposition of any seized property.

E. A holder of a medical marijuana business license pursuant to Section 427.14 of Title 63 of the Oklahoma Statutes engaging in a commercial growing operation may operate without obtaining a bond

upon verification by the Authority that the permitted land on which the licensee operates the commercial growing operation has been owned by the licensee for at least a five-year period prior to submission of application.

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.

Passed the Senate the 20th day of March, 2023.

Presiding Officer of the Senate

Passed the House of Representatives the 18th day of April, 2023.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 19th day of April, 2023, at 3:22 o'clock p. M.

By: James Curry

Approved by the Governor of the State of Oklahoma this 20th day of April, 2023, at 2:36 o'clock p. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 20th day of April, 2023, at 2:47 o'clock P M.

By: Brian Bingman