

MATERIAL ON STATE QUESTION 788

April 11th, 2016

The Honorable Chris Bengé
Oklahoma Secretary of State
2300 N. Lincoln Boulevard, Ste. 101
Oklahoma City, Oklahoma 73105-4897

Re: Initiative Petition

Dear Mr. Secretary,

Please accept for filing the enclosed copy of an initiative petition and the suggested ballot title. The initiative petition would amend statutes to legalize medical marijuana.

Sincerely,

Oklahomans for Health
8751 N 117th E Ave
Owasso, OK 74055

RECEIVED

APR 11 2016

OKLAHOMA SECRETARY
OF STATE

FILED

APR 11 2016

OKLAHOMA SECRETARY
OF STATE

PROPOSED BALLOT TITLE

This measure amends the Oklahoma State Statutes. A yes vote legalizes the licensed use, sale, and growth of marijuana in Oklahoma for medicinal purposes. A license is required for use and possession of marijuana for medicinal purposes and must be approved by an Oklahoma Board Certified Physician. The State Department of Health will issue medical marijuana licenses if the applicant is eighteen years or older and an Oklahoma resident. A special exception will be granted to an applicant under the age of eighteen, however these applications must be signed by two physicians and a parent or legal guardian. The Department will also issue seller, grower, packaging, transportation, research and caregiver licenses. Individual and retail businesses must meet minimal requirements to be licensed to sell marijuana to licensees. The punishment for unlicensed possession of permitted amounts of marijuana for individuals who can state a medical condition is a fine not exceeding four hundred dollars. Fees and zoning restrictions are established. A seven percent state tax is imposed on medical marijuana sales.

Shall the proposal be approved?

For the proposal	-	YES
Against the proposal	-	NO

A "YES" vote is a vote in favor of this measure. A "NO" vote is a vote against this measure.

FILED

APR 11 2016

State Question No. 788, Initiative Petition No. 412

OKLAHOMA SECRETARY
OF STATE

WARNING

It is a felony for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter.

INITIATIVE PETITION

To the Honorable Mary Fallin, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma, respectfully order that the following proposed law shall be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election, to be held on the 8th day of November, 2016 (or at a special election as may be called by the Governor), and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office are correctly written after my name. The time for filing this petition expires ninety (90) days from _____. The question we herewith submit to our fellow voters is:

Shall the following bill be approved?

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

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 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 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.

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.

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).

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 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.

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.

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).

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

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.

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.

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 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).

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.

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.

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.

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
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.

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.

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.

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.

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

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

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.

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.

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

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.

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.

SECTION 9. This act shall become effective one (1) month immediately following its passage.

B

Report Advertisement

Oklahoma State Question 788, Medical Marijuana Legalization Initiative (2018)

Oklahoma State Question 788, the Medical Marijuana Legalization Initiative, will be on the ballot in Oklahoma as an initiated state statute on November 6, 2018, or at an earlier special election date set by the governor.^[1]

A **"yes"** vote supports this measure to legalize the licensed cultivation, use, and possession of marijuana for medicinal purposes.

A **"no"** vote opposes this measure to legalize the licensed cultivation, use, and possession of marijuana for medicinal purposes.

Signatures for the measure were certified in September 2016.^[2] However, the date of signatures submission, a rewrite of the ballot title, and an ensuing court battle meant the initiative was not certified for 2016. On March 27, 2017, the Oklahoma Supreme Court resolved the lawsuit, ruling in favor of the organization supporting the initiative.^[3] The finalized ballot title was certified by the secretary of state on June 15, 2017. The governor will issue a proclamation setting forth an election date for the initiative. A governor has not selected a date different from the general election for an initiative since 2005.^[4]

Overview

Status of medical marijuana in Oklahoma

The possession and medical use of marijuana is illegal in Oklahoma. As of July 2017, medical marijuana was legal in 29 states and D.C., and cannabis oil was legal in an additional 15 states, including Oklahoma. In 2015, Oklahoma authorized clinical trials of cannabis oil for persons 18 years of age or younger with severe forms of epilepsy.^[5] In 2016, the age cap was removed and clinical trials were expanded to cover other specific diseases and conditions.^[6] While marijuana is still illegal at the federal level, enforcement of federal marijuana laws is often not strict against state-legal medical marijuana. In December 2014, Congress passed a law that prohibits federal agents from raiding medical marijuana growers in states where medical marijuana is legal, effectively allowing states to legalize medical marijuana.^[7]

Initiative design

Oklahoma State Question 788: Medical Marijuana Legalization Initiative



Election date

November 6, 2018

Topic

Marijuana

Status

On the ballot

Type	Origin
State statute	Citizens

State Question 788 would legalize marijuana for medical purposes in Oklahoma. Obtaining a state-issued medical marijuana license would require a board-certified physician's signature. There would be no specific qualifying conditions to receive medical marijuana. People with licenses would be permitted to possess up to three ounces of marijuana on their person and eight ounces of marijuana in their residence. A seven percent tax would be levied on marijuana sales, with revenue being allocated to administrative costs, education, and drug and alcohol rehabilitation. Licenses would be required to operate dispensaries, commercial growing operations, and processing operations. Municipalities would be prohibited from restricting zoning laws to prevent marijuana dispensaries.^[1]

State of ballot measure campaigns

Oklahomans for Health, a 501(c)(4) organization, is leading the campaign in support of State Question 788.^[8] As a 501(c)(4) organization, Oklahomans for Health is not required to disclose the names of donors, except for private foundations. As of July 25, 2017, opponents had not formed a campaign.

Initiative design

The measure would provide for the licensing of medical marijuana recipients, dispensaries, commercial growers, and processors. An office within the Oklahoma State Department of Health would be created to review applications and issue licenses. Municipalities would be prohibited from restricting zoning laws to prevent dispensaries. Dispensaries would not be allowed to be located within 1,000 feet of a school.^[1]

The measure would enact a seven percent tax on marijuana sales. Revenue from the tax would finance regulatory costs. Any surplus would be distributed as follows: 75 percent to the General Fund to be used for education, and 25 percent to the Oklahoma State Department of Health to be used for drug and alcohol rehabilitation.

An individual 18 years old or older who wants to obtain a medical marijuana license would need a board-certified physician's signature. An individual under the age of 18 would need the signatures of two physicians and his or her parent or legal guardian. There would be no qualifying conditions, but a doctor would be required to sign according to "accepted standards a reasonable and prudent physician would follow when recommending or approving any medication." Licenses would cost \$100 and last two years. Recipients of Medicaid, Medicare, or SoonerCare would pay \$20 for a license. Caregiver licensees would also be available.

The initiative would forbid employers, landlords, and schools from penalizing persons for holding a medical marijuana license, unless failing to do so causes a loss of benefits under federal law. Employers would be allowed to penalize license-holders who possess or use marijuana while at work. The initiative would guarantee that holding a medical marijuana license does not preclude parental visitation or custody of a child.

Individuals possessing a medical marijuana license would be authorized to consume marijuana and possess up to three ounces on their persons, six mature and six seedling marijuana plants, up to one ounce of concentrated marijuana, up to 72 ounces of edible marijuana, and up to eight ounces of marijuana in their residences. Local governments would be empowered to enact guidelines allowing recipients to exceed the state-mandated possession limits. Possessing up to 1.5 ounces of marijuana without a license but with a medical condition would be deemed a misdemeanor.

Licenses to operate dispensaries, commercial growing operations, and processing operations would cost \$2,500. Penalties, including fines and license revocations, would be established for operations that fail to report sales accurately. The Oklahoma State Department of Health would be authorized to

inspect processing facilities. A panel of 12 residents, who are marijuana industry experts, would be established to create a list of food safety standards for the processing and handling of marijuana.^[1]

Text of measure

Ballot title

The ballot title is as follows:^[1]

“ This measure amends the Oklahoma State Statutes. A yes vote legalizes the licensed use, sale, and growth of marijuana in Oklahoma for medicinal purposes. A license is required for use and possession of marijuana for medicinal purposes and must be approved by an Oklahoma Board Certified Physician.

The State Department of Health will issue medical marijuana licenses if the application is eighteen years of older an Oklahoma resident. A special exception will be granted to an applicant under the age of eighteen, however these applications must be signed by two physicians and a parent or legal guardian.

The Department will also issue seller, grower, packaging, transportation, research and caregiver licenses. Individual and retail businesses must meet minimal requirements to be licensed to sell marijuana to licensees.

The punishment for unlicensed possession of permitted amounts of marijuana for individuals who can state a medical condition is a fine not exceeding four hundred dollars. Fees and zoning restrictions are established. A seven percent state tax is imposed on medical marijuana sales.

Shall the proposal be approved?

For the proposal - YES

Against the proposal - NO

A “YES” vote is a vote in favor of this measure. A “NO” vote is a vote against this measure.^[9]

”

Challenge to ballot title

See also: Oklahomans for Health v. Hunter

The ballot title for the initiative that will appear on the ballot was written by initiative proponents. In August 2016, Attorney General Scott Pruitt (R) said the ballot title was insufficient and rewrote the language. Oklahomans for Health filed litigation against Pruitt in the Oklahoma Supreme Court. In March 2017, the court ruled in favor of Oklahomans for Health, restoring the original ballot title.

Full text

The full text of the measure is as follows:^[1]

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:

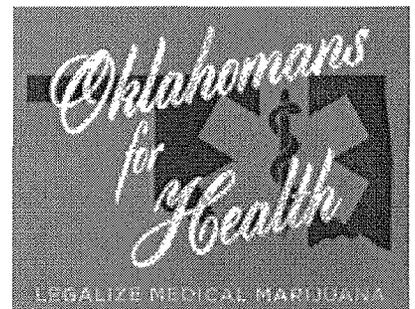
A. A person in possession of a state issued medical marijuana license shall be able to:

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

Sponsors

Oklahomans for Health, a 501(c)(4) organization, is leading the campaign in support of State Question 788.^[8]



Supporters

Officials

- Sen. Anastasia Pittman (D-48)^[8]
- Former Rep. Joe Dorman (D-65)^{[8][10]}

Individuals

- Janine Bradley, co-owner of OKC Organics^[11]

Arguments

Sen. Anastasia Pittman (D-48) stated:^[8]

“ We see far too many Oklahomans forced to use marijuana to treat some medical condition, and because of the current laws, they run the risk of arrest, a fine and incarceration. Thousands of children and elderly Oklahomans suffer from some medical condition where marijuana is the only affordable treatment they can find. It is time we change the law to make this type of treatment under a doctor's care in Oklahoma.^[9] ”

Former **Rep. Joe Dorman** (D-65), who endorsed the initiative, said:^[10]

“ I think it is ridiculous, though, that if a doctor says that it is the best treatment for an individual to deal with some kind of health issue, that it is automatically ruled out because of a societal belief that every aspect of it is bad.^[9] ”

Opposition

If you know of any opposition to State Question 788, please contact editor@ballotpedia.org.

Campaign finance

See also: *Campaign finance requirements for Oklahoma ballot measures*

As of December 4, 2017, no ballot question committees registered to support or oppose the initiative.^[14]

Oklahomans for Health, the group that is leading the campaign in support of State Question 788, is a 501(c)(4) nonprofit organization, not a political action committee.^{[8][15]} According to the IRS, "with the exception of private foundations, an exempt organization is not required to disclose the name and address of any contributor to the organization."^[16] Organizations registered as 501(c)(4) entities are permitted to engage in certain political campaign activities. However, political campaign activities cannot be the organization's primary activities. Oklahomans for Health has existed as a 501(c)(4) organization since 2014.^[17]

Total campaign contributions ^[12] as of December 4, 2017 ^[13]	
 Support:	\$0.00
 Opposition:	\$0.00

Background

Cannabidiol in Oklahoma

On April 30, 2015, Gov. Mary Fallin (R) signed House Bill 2154 (HB 2154), which authorized clinical trials of cannabidiol, also known as *cannabis oil* or CBD, for persons 18 years old or younger with severe forms of epilepsy.^{[6][18][19]} Gov. Fallin said, "This bill will help get sick children potentially life-changing medicine. By crafting the legislation in a way that allows for tightly controlled medical studies, we can ensure we are researching possible treatments in a responsible and scientific way." Rep. Jon Echols (R-90) and Sen. Brian A. Crain (R-39) sponsored HB 2154 in the Oklahoma Legislature.^[20]

Rep. Jon Echols (R-90) introduced House Bill 2835 (HB 2835) to expand access to cannabidiol clinical trials to persons over 18 years old with severe forms of epilepsy and persons with spasticity due to multiple sclerosis or paraplegia, intractable nausea and vomiting, or certain chronic wasting diseases.^[5] Rep. Echols said he was inspired to expand access to clinical trials after hearing about a child's reduction in seizures following cannabidiol treatment. He stated, "But under that bill [HB 2154 of 2015] when she turns 18 she can no longer take it. Not only does that not make sense, that's cruel." Sen. Ervin Yen (R-40) co-sponsored HB 2835 of 2016 with Rep. Echols.^{[21][22]} Gov. Fallin signed HB 2835 on May 16, 2016.^[23]

Medical marijuana in the United States

See also: *Medical marijuana and Marijuana laws in the United States*

Voting on Marijuana



Ballot Measures

By state

By year

Not on ballot

Local [show]

See also: History of marijuana on the ballot

In 2016, one of Oklahoma's neighboring states, Arkansas, approved a medical marijuana initiative. The initiated constitutional amendment, titled Issue 6, won 53 percent of the vote in Arkansas. Florida also approved an initiative, Amendment 2, designed to legalize marijuana for medical purposes. Over 70 percent voted in favor of the initiative in Florida. Measure 5 in North Dakota legalized the medical use of marijuana and received 64 percent of the vote. In Montana, voters approved Initiative 182, which was designed to repeal legislative changes, such as limiting medical marijuana providers to three patients, made to state medical marijuana laws. Overall, the 2016 election caused the number of states where medical marijuana is legal to increase from 24 to 28.

The following table details some of the differences between the Oklahoma initiative and the three passed in other states in 2016:

[show]	Oklahoma State Question 788	Arkansas Issue 6	Florida Amendment 2	North Dakota Measure 5
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Path to the ballot

See also: Laws governing the initiative process in Oklahoma

Petition drive

State Question 778 was filed with the secretary of state's office on April 11, 2016. Oklahomans for Health sponsored the petition. The secretary of state set the start date of the petition drive for May 14, 2016. Supporters had 90 days, which was until August 11, 2016, to collect the 65,987 valid signatures required for certification.

At 4:46 p.m. on August 11, 2016, the secretary of state's office reported receiving six boxes of signature pamphlets. The office conducted a count of the signatures between August 18 and August 23, 2016.^[1] On August 23, the secretary of state's office announced that 67,761 signatures were valid, or 1,774 more signatures than required to make the ballot.^[27] The Oklahoma Supreme Court confirmed the 67,761 signatures on September 13, 2016. No challenges were made to the signature count.^[28] However, certification was left pending at the time due to an ongoing lawsuit over the ballot title.^[29] The lawsuit was resolved on March 27, 2017.^[3]

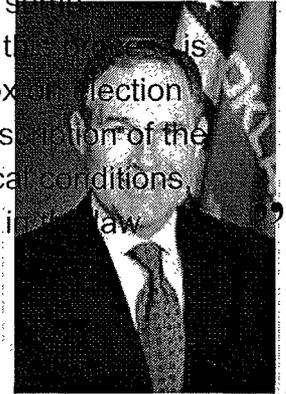
Ballot title rewrite

On August 18, 2016, Attorney General Scott Pruitt (R) notified the secretary of state that the ballot title was insufficient and required a rewrite. On August 25, the attorney general forwarded the rewritten ballot title to the secretary of state.^[4] Lincoln Ferguson, the attorney general's press secretary, said:^[30]

“ While the Attorney General certainly empathizes with the health care needs some individuals may have with respect to this issue, he firmly believes his role in this election is to put himself in the shoes of all Oklahoma voters as they go to the ballot box on election day, ensuring that they are sufficiently informed by providing an accurate description of the measure’s effects. The proposition itself states there are no qualifying medical conditions, and while a physician has to sign-off on an application for a license, nothing in the law provides a physician will monitor usage.^[9] ”

Frank Grove, co-chair of Oklahomans for Health, responded to the attorney general's revision of the ballot title, saying:^[30]

“ His [Pruitt's] politicization of the Initiative and Referendum process flies in the face of its intent. It also threatens the lives of Oklahomans who face life threatening illnesses and need access to medical cannabis today. Whatever the outcome of the judicial process we won't stop until SQ788 is put to a vote by the People.^[9] ”



Scott Pruitt was attorney general of Oklahoma from 2011 through 2017.

Due to the submission date of petition signatures and how the rewrite changed the timeline for certification, the measure did not make the ballot for the election on November 8, 2016.^{[31][32]} However, the initiative remained eligible for the 2018 ballot.^[33]

Oklahomans for Health initiated litigation in the Oklahoma Supreme Court to have the original ballot title restored for State Question 788. On March 27, 2017, the Supreme Court ruled in favor of initiative supporters, striking the attorney general's rewritten ballot title and restoring the petitioner's original ballot title.^[3]

Lawsuit

Lawsuit overview

Issue: Ballot language; allegedly misleading and confusing ballot title

Court: Oklahoma Supreme Court

Ruling: Ruled in favor of plaintiffs, reinstating original ballot title

Plaintiff(s): Oklahomans for Health, Chip Paul, and Philip Winters

Defendant(s): Attorney General Mike Hunter (Scott Pruitt prior to federal appointment as EPA Administrator on February 17, 2017)

Plaintiff argument:

The ballot title uses confusing language that could lead voters to believe they would be legalizing recreational marijuana instead of medical marijuana.

Defendant argument:

The ballot title is objective and more accurate than the original.

Source: Oklahoma State Courts Network and Oklahoma Supreme Court

Oklahomans for Health v. Hunter

In September 2016, Oklahomans for Health filed litigation against Attorney General Scott Pruitt (R) in the Oklahoma Supreme Court. Mike Hunter (R) replaced Pruitt as state attorney general, and defendant in the case, following Pruitt's appointment as EPA Administrator in February 2017. Plaintiffs said that Pruitt's rewrite of the ballot title was misleading and confusing. Plaintiffs also said the rewrite would lead voters to believe the initiative was designed to legalize recreational marijuana, rather than medical marijuana. David Slane, an attorney representing Oklahomans for Health, said, "No elected official has the right to rewrite these ballots in such a way that he would try to unfairly influence voters. Scott Pruitt has a habit, a pattern of doing this."^{[34][35]}

The lawsuit said the introduction of the rewritten ballot title was misleading. The rewritten introduction read, "This measure legalizes the licensed use, sale, and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified." The original introduction read, "A yes vote legalizes the licensed use, sale, and growth of marijuana in Oklahoma for medicinal purposes and must be approved by an Oklahoma Board Certified Physician."^[36]

Attorney General Pruitt defended his rewrite, stating, "They use the phrase in the marijuana petition 'medicinal marijuana.' That is a label. When people hear medicinal marijuana, it creates the impression in their mind that means I access that drug like I access other drugs. ... You access other drugs through a prescription. Here, it doesn't require a prescription. In fact, it is just a permit for two years."^[37]

On March 27, 2017, the Oklahoma Supreme Court ruled in favor of the plaintiffs, replacing Pruitt's ballot title with the original ballot title for State Question 778. The ruling majority was composed of seven justices. One justice dissented.^{[3][38]}

Mike Hunter (R), the state attorney general who succeeded Pruitt in February 2017, provided a statement on the ruling. He said, "The ballot title was reviewed by the Oklahoma Supreme Court and the Court opted to substitute the original ballot title language. We disagree with that result, but respect the decision of the state's highest court."^[39]

The following table compares petitioners' original ballot title and Attorney General Pruitt's rewritten ballot title for State Question 778:^[36]

Petitioners' original ballot title for SQ 788	Pruitt's amended ballot title for SQ 788

This measure amends the Oklahoma State Statutes. A yes vote legalizes the licensed use, sale, and growth of marijuana in Oklahoma for medicinal purposes. A license is required for use and possession of marijuana for medicinal purposes and must be approved by an Oklahoma Board Certified Physician.

The State Department of Health will issue medical marijuana licenses if the application is eighteen years or older an Oklahoma resident. A special exception will be granted to an applicant under the age of eighteen, however these applications must be signed by two physicians and a parent or legal guardian.

The Department will also issue seller, grower, packaging, transportation, research and caregiver licenses. Individual and retail businesses must meet minimal requirements to be licensed to sell marijuana to licensees.

The punishment for unlicensed possession of permitted amounts of marijuana for individuals who can state a medical condition is a fine not exceeding four hundred dollars. Fees and zoning restrictions are established. A seven percent state tax is imposed on medical marijuana sales.

This measure legalizes the licensed use, sale, and growth of marijuana in Oklahoma. There are no qualifying medical conditions identified. Possession and use of marijuana is authorized through a medical marijuana license that is valid for two years, rather than by prescription. An Oklahoma board certified physician must recommend the license using the same accepted standards for recommending other medications, and must sign the application for the license.

The State Department of Health must issue a license to an applicant who:

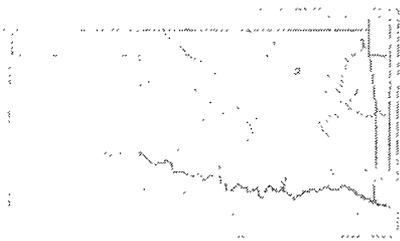
- submits a valid application,
- is eighteen years or older, and
- is an Oklahoma resident.

Applications for individuals under eighteen must be signed by two physicians and by a parent or legal guardian. The Department also issues seller, grower, packaging, transportation, research, and caregiver licenses to those who meet certain minimal requirements.

A 7 percent state tax is imposed on retail sales of marijuana. Unlicensed possession by an individual who claims to have a medical condition is punishable by a fine not exceeding \$400

Local government cannot use zoning laws to prevent the opening of a retail marijuana store. This measure does not change federal law, which makes use, sale, and growth of marijuana illegal.

State profile



This excerpt is reprinted here with the permission of the 2016 edition of the Almanac of American Politics and is up to date as of the publication date of that edition. All text is reproduced verbatim, though links have been added by Ballotpedia staff. To read the full chapter on Oklahoma, click here.

It wasn't that long ago that Democrats held some sway in Oklahoma. They controlled the state House until 2004, the state Senate until 2008, and the governorship until 2010. Now, though, the GOP has a virtual lock on the state. Not a single county in Oklahoma has voted Democratic in a presidential election since 2000 – a 308 for 308 record for the GOP.

Oklahoma, the subject of the classic Broadway musical, is one of the newest states, the 46th to be admitted to the Union, in 1907. Its Capitol, located atop a large oil field, opened in 1917, though the dome was not finally finished until 2002. As that chronology suggests, Oklahoma's history has been a story of sudden stops and starts. It was settled in a rush, first by the Five Civilized Tribes -

Chickasaw, Choctaw, Creek, Cherokee and Seminole - driven west by Andrew Jackson's troops on the Trail of Tears in the 1830s. Then came white settlers. One morning in April 1889, in the great land rush memorialized by novelist Edna Ferber ...[\(read more\)](#)

Presidential voting pattern

See also: Presidential voting trends in Oklahoma

Oklahoma voted Republican in all five presidential elections between 2000 and 2016.

More Oklahoma coverage on Ballotpedia

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Demographic data for Oklahoma		
	Oklahoma	U.S.
Total population:	3,907,414	316,515,021
Land area (sq mi):	68,595	3,531,905
Gender		
Female:	50.5%	50.8%
Race and ethnicity		
White:	73.1%	73.6%
Black/African American:	7.2%	12.6%
Asian:	1.9%	5.1%
Native American:	7.3%	0.8%
Pacific Islander:	0.1%	0.2%
Two or more:	7.8%	3%
Hispanic/Latino:	9.6%	17.1%
Education		
High school graduation rate:	86.9%	86.7%
College graduation rate:	24.1%	29.8%
Income		
Median household income:	\$46,879	\$53,889
Persons below poverty level:	19.7%	11.3%
<small>Source: U.S. Census Bureau, "American Community Survey" (5-year estimates 2010-2015)</small>		

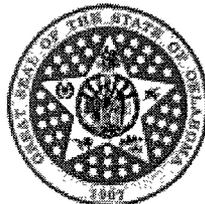
See also

2018 measures



- 2018 ballot measures
- Marijuana on the ballot
- 2018 legislative sessions

Oklahoma



- Oklahoma ballot measures
- Oklahoma ballot measure laws

News and analysis



- Ballot measure lawsuits
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- Initiative 788

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Recent news

The link below is to the most recent stories in a Google news search for the terms **Oklahoma 2018 Medical Marijuana Initiative**. These results are automatically generated from Google. Ballotpedia does not curate or endorse these articles.

Oklahoma State Question 788, Medical Marijuana Legalization Initiative (2018) - Google News

Footnotes

1. *Oklahoma Secretary of State*, "Initiative 788," accessed October 21, 2016
2. *The Oklahoman*, "Medical pot will see future ballot in Oklahoma after challenge period expires," September 30, 2016
3. *Fox 25*, "Supreme Court rejects Pruitt's pot ballot rewrite," March 27, 2017
4. *Oklahoma Secretary of State*, "Search State Questions," accessed August 22, 2016

Only the first few references on this page are shown above. [Click to show more.](#)

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Gov. Fallin, let Oklahomans vote on SQ 788

BY SHAWN JENKINS

Gov. Mary Fallin should stop delaying consideration of medical marijuana and schedule the vote on State Question 788 as soon as possible.



Jenkins

In the past 60 days, I've gone to the state Capitol five

times, making that point to more than 40 elected officials, including the governor.

The people of Oklahoma have done their part. They followed the procedure of petitioning, gathered the tens of thousands of signatures, fought to have the ballot title approved and finally secured that medical marijuana will be on the ballot sometime in 2018.

However, Gov. Fallin has yet to do her legal duty and set a date with the election board. It's a simple task; why is it being delayed? The people

of Oklahoma have spoken: We want medical marijuana, and we need it now more than ever.

With the current state of affairs and budget crisis in Oklahoma, the issue is even more pertinent. The latest Quality Counts grade for Education in Oklahoma is a "D," ranking our state 47th in the country. SQ 788 will directly benefit our education system. The proposed law designates that any surplus of the taxes collected shall be apportioned with 75 percent going to the general revenue fund and may only be expended for common education. In our neighboring state of Colorado, their once-crumbling, outdated schools have had a massive boost and incredible renovation thanks in part to the influx of recent tax revenue pouring out of that state's marijuana legislation.

To compound our state's current financial woes, we also have an incredible problem with meth and opioid addiction.

Oklahoma ranks second in the nation for substance abuse, according to OK.gov. SQ 788 also addresses this issue, because the other 25 percent of surplus taxes is apportioned to the Oklahoma Department of Health, earmarked for drug and alcohol rehabilitation.

It is also worth mentioning that new research shows medical marijuana as a treatment for addiction or a safer replacement of opioid painkillers. The American Journal of Public Health published research earlier this year showing that Colorado's marijuana legislation coincided with a 6.5 percent reduction in opioid overdose deaths. The National Institute of Drug Abuse is funding projects investigating medical marijuana and its components for treatment of substance use disorder, methamphetamine use disorder and relapse prevention. The institute is also looking at the potential therapy for alcohol use disorder and opioid

withdrawal.

In other states with medical marijuana, we have seen the profound effects of cannabis in children with seizures, helping patients who are fighting cancer, those with chronic pain and other debilitating diseases. Let us not stand in the way of a doctor's right to prescribe a safe, effective medicine to patients as the doctor deems fit. No one else needs to suffer because of an outdated law.

Please, let's not be last anymore, Oklahoma!

If anything ties us together, it's that we care. We care about our sick. We care about our elderly and those who are suffering. We care about teachers, and we all want to see our schools flourish.

But despite having great everyday Oklahomans, our neighboring states are about to pull ahead again with Arkansas and Texas enacting medical marijuana legislation ahead of us. More than half of the states have legalized medical marijuana, hemp,

or recreational use. Our government denies suffering Oklahomans legal access to medicine that is safer than prescription drugs. Furthermore, it is robbing our state of the opportunity to address Oklahoma's financial crisis.

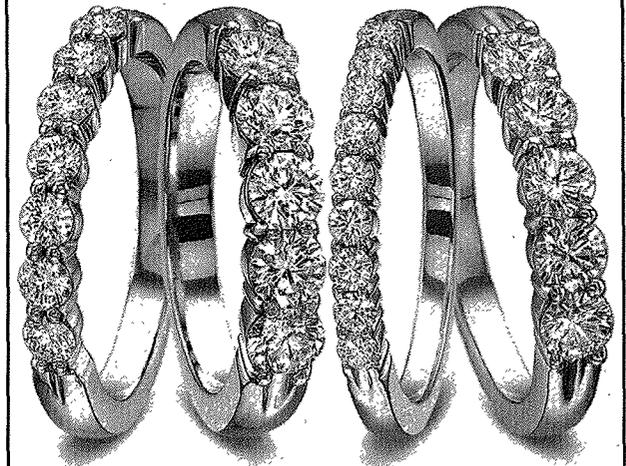
Gov. Fallin, let's not put Oklahoma and its people last. We expect you to follow the will of the people and set the date for medi-

cal marijuana to be on the Oklahoma ballot as soon as possible in June 2018.

Shawn Jenkins is an Oklahoma native and the father of four children, one of which suffers from intractable epilepsy. He is a U.S. Army Veteran (101st Airborne Div.), graduated with B.S. and M.S. degrees from OSU, and is a former Oklahoma teacher.



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Then, in a historical blink, what seemed incredible

our country is now in a much better ethical place

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