



NCA 20-083

CLASSIFICATION: #14. CRIMES AND PUNISHMENTS

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 14 CRIMES & PUNISHMENT AND ESTABLISHING NEW LAW IN MCNCA TITLE 14 § 2-512 ENTITLED “Medical Marijuana Exception; Application and Limitations”

Be it enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. FINDINGS. The National Council finds that:

A. On July 9, 2020, the United States Supreme Court issued its decision in the case of *McGirt v. State of Oklahoma* and held that Congress never disestablished the reservation boundaries of the Muscogee (Creek) Nation (the “Nation”). Through this holding, the Supreme Court affirmed that the Nation’s Reservation constitutes “Indian country” as defined under 18 U.S.C. § 1151.

B. Pursuant to § 1-102.C of Title 27 of the Nation’s Code, the Muscogee Courts shall have original jurisdiction over all Indians alleged to have committed in the Nation’s Indian country a criminal offense enumerated and defined by any law or statute of the Nation.

C. The Nation’s Code lists marijuana as a Schedule I controlled substance (Title 14, § 2-503.C.12), and any person who is convicted of knowingly possessing any amount of marijuana shall be guilty of a felony. Title 14, § 2-512. There are other sections in Title 14 that lists as a criminal offense other activity related to the use and possession of marijuana.

D. In 2018, medical marijuana was legalized under State law when voters approved Oklahoma State Question 788, or the Medical Marijuana Legalization Initiative. The Oklahoma State Department of Health oversees the Oklahoma Medical Marijuana Authority, which was established to administer the rules and regulations governing the State’s medical marijuana program. Under Oklahoma State law, there are various licenses, both commercial and non-commercial, that may be issued to applicants and regulated by the Oklahoma State Department of Health regarding medical marijuana.

E. Many Indians and non-Indians located in the Creek Reservation are holders of medical marijuana licenses issued by the Oklahoma State Department of Health and are currently using, possessing, transporting, and selling medical marijuana in the Reservation. However, nothing in the Nation’s Code provides an exception in the law for medical marijuana in any form in the Nation’s Reservation. As a result, many individuals and businesses located in the Reservation who are medical marijuana license holders

are uncertain as to whether they may be subject to criminal prosecution, or that their property related to marijuana may be subject to forfeiture, under the Nation's laws.

F. The Mvskoke Reservation Protection Commission (the "Commission") has studied this issue and has recommended to the National Council that legislative action be developed, at least for the immediate term, to provide some clarity as to whether the Nation will enforce any criminal law against anyone who possesses a valid license, and is in compliance with the license, for medical marijuana purposes. The Commission will continue to analyze the medical marijuana issue to develop in-depth and long-term recommendations to the National Council that will identify possible regulatory and taxation authority, as well as economic development opportunities, in the field of medical marijuana.

G. The National Council finds that, at least for the immediate term, that the Nation's laws should be amended to clarify that no medical marijuana license holder will be subject to any criminal liability for growing, processing, dispensing, testing, possessing, or using medical marijuana in the Reservation as long as that license holder is in compliance with the parameters of the license issued by the Oklahoma State Department of Health, and for these amendments to go into effect immediately.

SECTION TWO. AMENDMENTS. These amendment shall be codified in Title 14, Chapter 2 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification said amendment and its inclusion in pocket parts of the Code of Laws for the Muscogee (Creek) Nation, the Attorney General is authorized (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts of the Code of Laws and; (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval:

SECTION THREE. AMENDMENT. MCNCA Title 14, § 2-501.E. and W. are hereby amended to read as follows:

§ 2-501. Uniform dangerous substances; definitions

E. "Controlled dangerous substance" means any drug, substance or its immediate precursor named in Schedules I through V in the subchapter; **however, the term "Controlled dangerous substance" referenced in this Chapter shall not apply to marijuana in any form that is grown, processed, dispensed, tested, possessed or used by any person in the Nation's Indian country who has been issued a medical marijuana license by the Oklahoma State Department of Health, as long as such person is in compliance with all medical marijuana license laws and regulations under Oklahoma State law and any other applicable law of the Nation.**

W. "Marijuana" means all parts of the plant Cannabis Sativa, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination. The substance Cannabis Sativa L. includes all forms, varieties and species of the plant genus, Cannabis. The term "medical marijuana" means marijuana that is grown, processed, dispensed, tested, possessed or used for medical purposes.

SECTION FOUR. AMENDMENT. MCNCA Title 14, § 2-512. is hereby amended to read as follows:

§ 2-512. Possession of controlled dangerous substances

Except as provided in § 2-524. of this Title, ¶the crime of possession of controlled dangerous substances occurs when a person knowingly possesses any substance listed in Schedule I, II, III, IV, or V. Any person convicted of violating the foregoing provision shall be guilty of a felony.

SECTION FIVE. NEW LAW. The following new law shall be codified in Title 14, Chapter 2 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said new law and its inclusion in pocket parts for the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated in this law in order to be consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws; and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following new law:

§ 2-524. Medical Marijuana Exception; Application and Limitations

A. It shall not be unlawful for any person to grow, process, dispense, test, possess, or use marijuana in any form in the Nation's Indian country under a valid medical marijuana license issued by the Oklahoma State Department of Health as long as such person is in compliance with all medical marijuana license laws and regulations under Oklahoma State law (63 O.S. § 420, et seq., 63 O.S. § 426.1, 63 O.S. § 427.1 et seq., and 63 O.S. § 427a et seq.) and any other applicable law of the Nation. For purposes of this section, the term "person" includes any natural born person or entity.

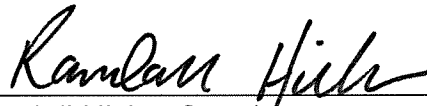
Department of Health, shall not be subject to any forfeiture laws of the Nation, as long as the ownership, use or possession of such real or personal property is not inconsistent with the medical marijuana license laws and regulations under Oklahoma State law (63 O.S. § 420, *et seq.*, 63 O.S. § 426.1, 63 O.S. § 427.1 *et seq.*, and 63 O.S. § 427a *et seq.*) and any other applicable law of the Nation.

C. Nothing in this Section shall prohibit the Nation from enforcing against any person all laws regarding marijuana when such person is not a holder of a valid medical marijuana license issued by the Oklahoma State Department of Health, is in violation of the laws and regulations applicable for medical marijuana licenses or is in violation of other applicable laws of the Nation.

SECTION SIX. **EFFECTIVE DATE.** This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

ENACTED by the Muscogee (Creek) National Council on this **31st** day of **October, 2020.**

IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Randall Hicks, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION


I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with **Sixteen** members attending this meeting on the **31st** day of **October, 2020** and that the above is in conformity with the provisions therein adopted by a vote of **15** in favor, **0** against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



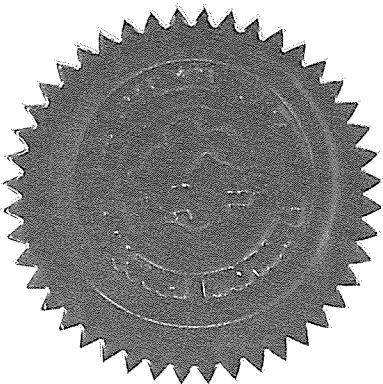
Kristie A. Jackson, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 5th day of November, 2020 to the above Law, **NCA 20-083** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



David W. Hill, Principal Chief
Muscogee (Creek) Nation





NCA 20-083

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B. Any real or personal property located in the Nation's Indian country that is related to or involves medical marijuana, and that is owned, used or possessed by any person who holds a valid medical marijuana license issued by the Oklahoma State

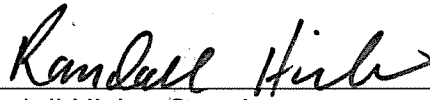
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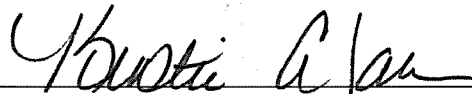
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Randall Hicks, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

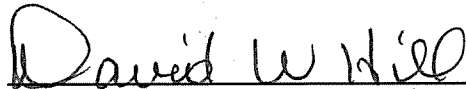
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Kristie A. Jackson, Recording Secretary
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