

SECOND REGULAR SESSION

# HOUSE JOINT RESOLUTION NO. 125

100TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SHAWAN.

5737H.011

DANA RADEMAN MILLER, Chief Clerk

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## JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing Section 1 of Article XIV of the Constitution of Missouri, and adopting one new section in lieu thereof relating to medical marijuana legal expenses.

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*Be it resolved by the House of Representatives, the Senate concurring therein:*

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2020, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to Article XIV of the Constitution of the state of Missouri:

Section A. Section 1, Article XIV, Constitution of Missouri, is repealed and one new section adopted in lieu thereof, to be known as Section 1, to read as follows:

Section 1. 1. Purposes.

This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

10 penalties, and to allow for the limited legal production, distribution, sale and purchase of  
11 marijuana for medical use. This section is not intended to change current civil and criminal laws  
12 governing the use of marijuana for nonmedical purposes. The section does not allow for the  
13 public use of marijuana and driving under the influence of marijuana.

14 2. Definitions.

15 (1) "Administer" means the direct application of marijuana to a qualifying patient by way  
16 of any of the following methods:

- 17 (a) Ingestion of capsules, teas, oils, and other marijuana-infused products;
- 18 (b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;
- 19 (c) Application of ointments or balms;
- 20 (d) Transdermal patches and suppositories;
- 21 (e) Consuming marijuana-infused food products; or
- 22 (f) Any other method recommended by a qualifying patient's physician.

23 (2) "Department" means the department of health and senior services, or its successor  
24 agency.

25 (3) "Entity" means a natural person, corporation, professional corporation, nonprofit  
26 corporation, cooperative corporation, unincorporated association, business trust, limited liability  
27 company, general or limited partnership, limited liability partnership, joint venture, or any other  
28 legal entity.

29 (4) "Flowering plant" means a marijuana plant from the time it exhibits the first signs  
30 of sexual maturity through harvest.

31 (5) "Marijuana" or "marihuana" means *Cannabis indica*, *Cannabis sativa*, and *Cannabis*  
32 *ruderalis*, hybrids of such species, and any other strains commonly understood within the  
33 scientific community to constitute marijuana, as well as resin extracted from the plant and  
34 marijuana-infused products. "Marijuana" or "marihuana" do not include industrial hemp  
35 containing a cropwide average tetrahydrocannabinol concentration that does not exceed  
36 three-tenths of one percent on a dry weight basis, or commodities or products manufactured from  
37 industrial hemp.

38 (6) "Marijuana-infused products" means products that are infused with marijuana or an  
39 extract thereof and are intended for use or consumption other than by smoking, including, but  
40 not limited to, edible products, ointments, tinctures and concentrates.

41 (7) "Medical marijuana cultivation facility" means a facility licensed by the department  
42 to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana  
43 dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products  
44 manufacturing facility.

45 (8) "Medical marijuana dispensary facility" means a facility licensed by the department  
46 to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug  
47 paraphernalia used to administer marijuana as provided for in this section to a qualifying patient,  
48 a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing  
49 facility, or a medical marijuana-infused products manufacturing facility.

50 (9) "Medical marijuana-infused products manufacturing facility" means a facility  
51 licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused  
52 products to a medical marijuana dispensary facility, a medical marijuana testing facility, or to  
53 another medical marijuana-infused products manufacturing facility.

54 (10) "Medical marijuana testing facility" means a facility certified by the department to  
55 acquire, test, certify, and transport marijuana.

56 (11) "Medical use" means the production, possession, delivery, distribution,  
57 transportation, or administration of marijuana or a marijuana-infused product, or drug  
58 paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a  
59 qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical  
60 condition.

61 (12) "Physician" means an individual who is licensed and in good standing to practice  
62 medicine or osteopathy under Missouri law.

63 (13) "Physician certification" means a document, whether handwritten, electronic or in  
64 another commonly used format, signed by a physician and stating that, in the physician's  
65 professional opinion, the patient suffers from a qualifying medical condition.

66 (14) "Primary caregiver" means an individual twenty-one years of age or older who has  
67 significant responsibility for managing the well-being of a qualifying patient and who is  
68 designated as such on the primary caregiver's application for an identification card under this  
69 section or in other written notification to the department.

70 (15) "Qualifying medical condition" means the condition of, symptoms related to, or  
71 side-effects from the treatment of:

72 (a) Cancer;

73 (b) Epilepsy;

74 (c) Glaucoma;

75 (d) Intractable migraines unresponsive to other treatment;

76 (e) A chronic medical condition that causes severe, persistent pain or persistent muscle  
77 spasms, including but not limited to those associated with multiple sclerosis, seizures,  
78 Parkinson's disease, and Tourette's syndrome;

79 (f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress  
80 disorder, if diagnosed by a state licensed psychiatrist;

- 81 (g) Human immunodeficiency virus or acquired immune deficiency syndrome;
- 82 (h) A chronic medical condition that is normally treated with a prescription medication  
83 that could lead to physical or psychological dependence, when a physician determines that  
84 medical use of marijuana could be effective in treating that condition and would serve as a safer  
85 alternative to the prescription medication;
- 86 (i) Any terminal illness; or
- 87 (j) In the professional judgment of a physician, any other chronic, debilitating or other  
88 medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis,  
89 inflammatory bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle  
90 cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.
- 91 (16) "Qualifying patient" means a Missouri resident diagnosed with at least one  
92 qualifying medical condition.
- 93 3. Creating Patient Access to Medical Marijuana.
- 94 (1) In carrying out the implementation of this section, the department shall have the  
95 authority to:
- 96 (a) Grant or refuse state licenses and certifications for the cultivation, manufacture,  
97 dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided  
98 by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this  
99 section or a rule promulgated pursuant to this section; and impose any administrative penalty  
100 authorized by this section or any rule promulgated pursuant to this section.
- 101 (b) Promulgate rules and emergency rules necessary for the proper regulation and control  
102 of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and for the  
103 enforcement of this section so long as patient access is not restricted unreasonably and such rules  
104 are reasonably necessary for patient safety or to restrict access to only licensees and qualifying  
105 patients.
- 106 (c) Develop such forms, certificates, licenses, identification cards, and applications as  
107 are necessary for, or reasonably related to, the administration of this section or any of the rules  
108 promulgated under this section;
- 109 (d) Require a seed-to-sale tracking system that tracks medical marijuana from either the  
110 seed or immature plant stage until the medical marijuana or medical marijuana-infused product  
111 is sold to a qualifying patient or primary caregiver to ensure that no medical marijuana grown  
112 by a medical marijuana cultivation facility or manufactured by a medical marijuana-infused  
113 products manufacturing facility is sold or otherwise transferred except by a medical marijuana  
114 dispensary facility. The department shall certify, if possible, at least two commercially available  
115 systems to licensees as compliant with its tracking standards and issue standards for the creation  
116 or use of other systems by licensees.

117 (e) Issue standards for the secure transportation of marijuana and marijuana-infused  
118 products. The department shall certify entities which demonstrate compliance with its  
119 transportation standards to transport marijuana and marijuana-infused products to a medical  
120 marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a  
121 medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with  
122 a transportation certification. The department shall develop or adopt from any other  
123 governmental agency such safety and security standards as are reasonably necessary for the  
124 transportation of marijuana. Any entity licensed or certified pursuant to this section shall be  
125 allowed to transport cannabis.

126 (f) The department may charge a fee not to exceed \$5,000 for any certification issued  
127 pursuant to this section.

128 (g) Prepare and transmit annually a publicly available report accounting to the governor  
129 for the efficient discharge of all responsibilities assigned to the department under this section;

130 (h) Establish a system to numerically score competing medical marijuana licensee and  
131 certificate applicants, only in cases where more applicants apply than the minimum number of  
132 licenses or certificates as calculated by this section, which scoring shall be limited to an analysis  
133 of the following:

134 (i) the character, veracity, background, qualifications, and relevant experience of  
135 principal officers or managers;

136 (ii) the business plan proposed by the applicant, which in the case of cultivation facilities  
137 and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to  
138 ensure safety and security of qualifying patients and the community, procedures to be used to  
139 prevent diversion, and any plan for making marijuana available to low-income qualifying  
140 patients;

141 (iii) site security;

142 (iv) experience in a legal cannabis market;

143 (v) in the case of medical marijuana testing facilities, the experience of their personnel  
144 with testing marijuana, food or drugs for toxins and/or potency and health care industry  
145 experience;

146 (vi) the potential for positive economic impact in the site community;

147 (vii) in the case of medical marijuana cultivation facilities, capacity or experience with  
148 agriculture, horticulture, and health care;

149 (viii) in the case of medical marijuana dispensary facilities, capacity or experience with  
150 health care, the suitability of the proposed location, and its accessibility for patients;

151 (ix) in the case of medical marijuana-infused products manufacturing facilities, capacity  
152 or experience with food and beverage manufacturing; and

153 (x) maintaining competitiveness in the marijuana for medical use marketplace.

154 In ranking applicants and awarding licenses and certificates, the department may consult  
155 or contract with other public agencies with relevant expertise regarding these factors. The  
156 department shall lift or ease any limit on the number of licensees or certificate holders in order  
157 to meet the demand for marijuana for medical use by qualifying patients.

158 (2) The department shall issue any rules or emergency rules necessary for the  
159 implementation and enforcement of this section and to ensure the right to, availability, and safe  
160 use of marijuana for medical use by qualifying patients. In developing such rules or emergency  
161 rules, the department may consult with other public agencies. In addition to any other rules or  
162 emergency rules necessary to carry out the mandates of this section, the department may issue  
163 rules or emergency rules relating to the following subjects:

164 (a) Compliance with, enforcement of, or violation of any provision of this section or any  
165 rule issued pursuant to this section, including procedures and grounds for denying, suspending,  
166 fining, restricting, or revoking a state license or certification issued pursuant to this section;

167 (b) Specifications of duties of officers and employees of the department;

168 (c) Instructions or guidance for local authorities and law enforcement officers;

169 (d) Requirements for inspections, investigations, searches, seizures, and such additional  
170 enforcement activities as may become necessary from time to time;

171 (e) Creation of a range of administrative penalties for use by the department;

172 (f) Prohibition of misrepresentation and unfair practices;

173 (g) Control of informational and product displays on licensed premises provided that the  
174 rules may not prevent or unreasonably restrict appropriate signs on the property of the medical  
175 marijuana dispensary facility, product display and examination by the qualifying patient and/or  
176 primary caregiver, listings in business directories including phone books, listings in  
177 marijuana-related or medical publications, or the sponsorship of health or not for profit charity  
178 or advocacy events;

179 (h) Development of individual identification cards for owners, officers, managers,  
180 contractors, employees, and other support staff of entities licensed or certified pursuant to this  
181 section, including a fingerprint-based federal and state criminal record check in accordance with  
182 U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior  
183 to issuing a card and procedures to ensure that cards for new applicants are issued within  
184 fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the  
185 Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based  
186 criminal background check. The Missouri state highway patrol, if necessary, shall forward the  
187 fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a

188 fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543  
189 and fees shall be paid pursuant to 43.530;

190 (i) Security requirements for any premises licensed or certified pursuant to this section,  
191 including, at a minimum, lighting, physical security, video, alarm requirements, and other  
192 minimum procedures for internal control as deemed necessary by the department to properly  
193 administer and enforce the provisions of this section, including reporting requirements for  
194 changes, alterations, or modifications to the premises;

195 (j) Regulation of the storage of, warehouses for, and transportation of marijuana for  
196 medical use;

197 (k) Sanitary requirements for, including, but not limited to, the preparation of medical  
198 marijuana-infused products;

199 (l) The specification of acceptable forms of picture identification that a medical  
200 marijuana dispensary facility may accept when verifying a sale;

201 (m) Labeling and packaging standards;

202 (n) Records to be kept by licensees and the required availability of the records;

203 (o) State licensing procedures, including procedures for renewals, reinstatements, initial  
204 licenses, and the payment of licensing fees;

205 (p) The reporting and transmittal of tax payments;

206 (q) Authorization for the department of revenue to have access to licensing information  
207 to ensure tax payment and the effective administration of this section; and

208 (r) Such other matters as are necessary for the fair, impartial, stringent, and  
209 comprehensive administration of this section.

210 (3) The department shall issue rules or emergency rules for a medical marijuana and  
211 medical marijuana-infused products independent testing and certification program for medical  
212 marijuana licensees and requiring licensees to test medical marijuana using one or more  
213 impartial, independent laboratories to ensure, at a minimum, that products sold for human  
214 consumption do not contain contaminants that are injurious to health, to ensure correct labeling  
215 and measure potency. The department shall not require any medical marijuana or medical  
216 marijuana-infused products to be tested more than once prior to sale.

217 (4) The department shall issue rules or emergency rules to provide for the certification  
218 of and standards for medical marijuana testing facilities, including the requirements for  
219 equipment and qualifications for personnel, but shall not require certificate holders to have any  
220 federal agency licensing or have any relationship with a federally licensed testing facility. The  
221 department shall certify, if possible, at least two entities as medical marijuana testing facilities.  
222 No medical marijuana testing facility shall be owned by an entity under substantially common

223 control, ownership, or management as a medical marijuana cultivation facility, medical  
224 marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

225 (5) The department shall maintain the confidentiality of reports or other information  
226 obtained from an applicant or licensee containing any individualized data, information, or  
227 records related to the licensee or its operation, including sales information, financial records, tax  
228 returns, credit reports, cultivation information, testing results, and security information and plans,  
229 or revealing any patient information, or any other records that are exempt from public inspection  
230 pursuant to state or federal law. Such reports or other information may be used only for a  
231 purpose authorized by this section. Any information released related to patients may be used  
232 only for a purpose authorized by federal law and this section, including verifying that a person  
233 who presented a patient identification card to a state or local law enforcement official is lawfully  
234 in possession of such card.

235 (6) Within one hundred eighty days of December 6, 2018, the department shall make  
236 available to the public license application forms and application instructions for medical  
237 marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana  
238 dispensary facilities, and medical marijuana-infused products manufacturing facilities.

239 (7) Within one hundred eighty days of December 6, 2018, the department shall make  
240 available to the public application forms and application instructions for qualifying patient,  
241 qualifying patient cultivation, and primary caregiver identification cards. Within two hundred  
242 ten days of December 6, 2018, the department shall begin accepting applications for such  
243 identification cards.

244 (8) An entity may apply to the department for and obtain one or more licenses to grow  
245 marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a  
246 separate license, but multiple licenses may be utilized in a single facility. Each indoor facility  
247 utilizing artificial lighting may be limited by the department to thirty thousand square feet of  
248 flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by  
249 the department to two thousand eight hundred flowering plants. Each greenhouse facility using  
250 a combination of natural and artificial lighting may be limited by the department, at the election  
251 of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of  
252 flowering plant canopy. The license shall be valid for three years from its date of issuance and  
253 shall be renewable, except for good cause. The department shall charge each applicant a  
254 nonrefundable fee of ten thousand dollars per license application or renewal for all applicants  
255 filing an application within three years of December 6, 2018, and shall charge each applicant a  
256 nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once  
257 granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars  
258 per facility license. Application and license fees shall be increased or decreased each year by the

259 percentage of increase or decrease from the end of the previous calendar year of the Consumer  
260 Price Index, or successor index as published by the U.S. Department of Labor, or its successor  
261 agency. No more than three medical marijuana cultivation facility licenses shall be issued to any  
262 entity under substantially common control, ownership, or management.

263 (9) An entity may apply to the department for and obtain one or more licenses to operate  
264 a medical marijuana dispensary facility. Each facility in operation shall require a separate  
265 license. A license shall be valid for three years from its date of issuance and shall be renewable,  
266 except for good cause. The department shall charge each applicant a nonrefundable fee of six  
267 thousand dollars per license application or renewal for each applicant filing an application within  
268 three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three  
269 thousand dollars per license application or renewal thereafter. Once granted, the department  
270 shall charge each licensee an annual fee of ten thousand dollars per facility license. Application  
271 and license fees shall be increased or decreased each year by the percentage of increase or  
272 decrease from the end of the previous calendar year of the Consumer Price Index, or successor  
273 index as published by the U.S. Department of Labor, or its successor agency. No more than five  
274 medical marijuana dispensary facility licenses shall be issued to any entity under substantially  
275 common control, ownership, or management.

276 (10) An entity may apply to the department for and obtain one or more licenses to  
277 operate a medical marijuana-infused products manufacturing facility. Each facility in operation  
278 shall require a separate license. A license shall be valid for three years from its date of issuance  
279 and shall be renewable, except for good cause. The department shall charge each applicant a  
280 nonrefundable fee of six thousand dollars per license application or renewal for each applicant  
281 filing an application within three years of December 6, 2018, and shall charge each applicant a  
282 nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once  
283 granted, the department shall charge each licensee an annual fee of ten thousand dollars per  
284 facility license. Application and license fees shall be increased or decreased each year by the  
285 percentage of increase or decrease from the end of the previous calendar year of the Consumer  
286 Price Index, or successor index as published by the U.S. Department of Labor, or its successor  
287 agency. No more than three medical marijuana-infused products manufacturing facility licenses  
288 shall be issued to any entity under substantially common control, ownership, or management.

289 (11) Any applicant for a license authorized by this section may prefile their application  
290 fee with the department beginning 30 days after December 6, 2018.

291 (12) Except for good cause, a qualifying patient or his or her primary caregiver may  
292 obtain an identification card from the department to cultivate up to six flowering marijuana  
293 plants for the exclusive use of that qualifying patient. The card shall be valid for twelve months  
294 from its date of issuance and shall be renewable with the annual submittal of a new or updated

295 physician's certification. The department shall charge an annual fee for the card of one hundred  
296 dollars, with such rate to be increased or decreased each year by the percentage of increase or  
297 decrease from the end of the previous calendar year of the Consumer Price Index, or successor  
298 index as published by the U.S. Department of Labor, or its successor agency.

299 (13) The department may set a limit on the amount of marijuana that may be purchased  
300 by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less  
301 than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not  
302 apply to a qualifying patient with written certification from two independent physicians that there  
303 are compelling reasons why the qualifying patient needs a greater amount than the limit  
304 established by the department.

305 (14) The department may set a limit on the amount of marijuana that may be possessed  
306 by or on behalf of each qualifying patient, provided that limit is not less than a sixty-day supply  
307 of dried, unprocessed marijuana, or its equivalent. A primary caregiver may possess a separate  
308 legal limit for each qualifying patient under their care and a separate legal limit for themselves  
309 if they are a qualifying patient. Qualifying patients cultivating marijuana for medical use may  
310 possess up to a ninety-day supply, so long as the supply remains on property under their control.  
311 Any such limit shall not apply to a qualifying patient with written certification from two  
312 independent physicians that there are compelling reasons for additional amounts. Possession of  
313 between the legal limit and up to twice the legal limit shall subject the possessor to department  
314 sanctions, including an administrative penalty and loss of their patient identification card for up  
315 to a year. Purposefully possessing amounts in excess of twice the legal limit shall be punishable  
316 by imprisonment of up to one year and a fine of up to two thousand dollars.

317 (15) The department may restrict the aggregate number of licenses granted for medical  
318 marijuana cultivation facilities, provided, however, that the number may not be limited to fewer  
319 than one license per every one hundred thousand inhabitants, or any portion thereof, of the state  
320 of Missouri, according to the most recent census of the United States. A decrease in the number  
321 of inhabitants in the state of Missouri shall have no impact.

322 (16) The department may restrict the aggregate number of licenses granted for  
323 marijuana-infused products manufacturing facilities, provided, however, that the number may  
324 not be limited to fewer than one license per every seventy thousand inhabitants, or any portion  
325 thereof, of the state of Missouri, according to the most recent census of the United States. A  
326 decrease in the number of inhabitants in the state of Missouri shall have no impact.

327 (17) The department may restrict the aggregate number of licenses granted for medical  
328 marijuana dispensary facilities, provided, however, that the number may not be limited to fewer  
329 than twenty-four licenses in each United States congressional district in the state of Missouri  
330 pursuant to the map of each of the eight congressional districts as drawn and effective on

331 December 6, 2018. Future changes to the boundaries of or the number of congressional districts  
332 shall have no impact.

333 (18) The department shall begin accepting license and certification applications for  
334 medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana  
335 cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale  
336 tracking systems, and for transportation of marijuana no later than two hundred forty days after  
337 December 6, 2018. Applications for licenses and certifications under this section shall be  
338 approved or denied by the department no later than one hundred fifty days after their submission.  
339 If the department fails to carry out its nondiscretionary duty to approve or deny an application  
340 within one hundred fifty days of submission, an applicant may immediately seek a court order  
341 compelling the department to approve or deny the application.

342 (19) Qualifying patients under this section shall obtain and annually renew an  
343 identification card or cards from the department. The department shall charge a fee of  
344 twenty-five dollars per year per card with such fee to be increased or decreased each year by the  
345 percentage of increase or decrease from the end of the previous calendar year of the Consumer  
346 Price Index, or successor index as published by the U.S. Department of Labor or its successor  
347 agency. Upon receiving an application for a qualifying patient identification card or qualifying  
348 patient cultivation identification card, the department shall, within thirty days, either issue the  
349 card or provide a written explanation for its denial. If the department fails to deny and fails to  
350 issue a card to an eligible qualifying patient within thirty days, then their physician certification  
351 shall serve as their qualifying patient identification card or qualifying patient cultivation  
352 identification card for up to one year from the date of physician certification. All initial  
353 applications for or renewals of a qualifying patient identification card or qualifying patient  
354 cultivation identification card shall be accompanied by a physician certification that is less than  
355 thirty days old.

356 (20) Primary caregivers under this section shall obtain and annually renew an  
357 identification card from the department. The department shall charge a fee of twenty-five dollars  
358 per year, with such fee to be increased or decreased each year by the percentage of increase or  
359 decrease from the end of the previous calendar year of the Consumer Price Index, or successor  
360 index as published by the U.S. Department of Labor, or its successor agency. Upon receiving  
361 an application for a primary caregiver identification card, the department shall, within thirty days,  
362 either issue the card or provide a written explanation for its denial.

363 (21) All marijuana for medical use sold in Missouri shall be cultivated in a licensed  
364 medical marijuana cultivation facility located in Missouri.

365 (22) All marijuana-infused products for medical use sold in the state of Missouri shall  
366 be manufactured in a medical marijuana-infused products manufacturing facility.

367 (23) The denial of a license, license renewal, or identification card by the department  
368 shall be appealable to the administrative hearing commission, or its successor entity. Following  
369 the exhaustion of administrative review, denial of a license, license renewal, or identification  
370 card by the department shall be subject to judicial review as provided by law.

371 (24) No elected official shall interfere directly or indirectly with the department's  
372 obligations and activities under this section.

373 (25) The department shall not have the authority to apply or enforce any rule or  
374 regulation that would impose an undue burden on any one or more licensees or certificate  
375 holders, any qualifying patients, or act to undermine the purposes of this section.

376 4. Taxation and Reporting.

377 (1) A tax is levied upon the retail sale of marijuana for medical use sold at medical  
378 marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the  
379 retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and  
380 paid to the department of revenue. After retaining no more than five percent for its actual  
381 collection costs, amounts generated by the tax levied in this section shall be deposited by the  
382 department of revenue into the Missouri veterans' health and care fund. Licensed entities making  
383 retail sales within the state shall be allowed approved credit for returns provided the tax was paid  
384 on the returned item and the purchaser was given the refund or credit.

385 (2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care  
386 Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall  
387 be custodian of the fund, and he or she shall invest monies in the fund in the same manner as  
388 other funds are invested. Any interest and monies earned on such investments shall be credited  
389 to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at  
390 the end of a biennium shall not revert to the credit of the general revenue fund. The  
391 commissioner of administration is authorized to make cash operating transfers to the fund for  
392 purposes of meeting the cash requirements of the department in advance of it receiving annual  
393 application, licensing, and tax revenue, with any such transfers to be repaid as provided by law.  
394 The fund shall be a dedicated fund and shall stand appropriated without further legislative action  
395 as follows:

396 (a) First, to the department, an amount necessary for the department to carry out this  
397 section, including repayment of any cash operating transfers, payments made through contract  
398 or agreement with other state and public agencies necessary to carry out this section, and a  
399 reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this  
400 section;

401 (b) Next, the remainder of such funds shall be transferred to the Missouri veterans  
402 commission for health and care services for military veterans, including the following purposes:

403 operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri  
404 service officer's program, and other services for veterans approved by the commission, including,  
405 but not limited to, health care services, mental health services, drug rehabilitation services,  
406 housing assistance, job training, tuition assistance, and housing assistance to prevent  
407 homelessness. The Missouri veterans commission shall contract with other public agencies for  
408 the delivery of services beyond its expertise.

409 (c) All monies from the taxes authorized under this subsection shall provide additional  
410 dedicated funding for the purposes enumerated above and shall not replace existing dedicated  
411 funding.

412 **(d) Monies from the taxes and fees authorized under this subsection shall not be**  
413 **used for any state legal expenses relating to medical marijuana appeals.**

414 (3) For all retail sales of marijuana for medical use, a record shall be kept by the seller  
415 which identifies, by secure and encrypted patient number issued by the seller to the qualifying  
416 patient involved in the sale, all amounts and types of marijuana involved in the sale and the total  
417 amount of money involved in the sale, including itemizations, taxes collected and grand total sale  
418 amounts. All such records shall be kept on the premises in a readily available format and be  
419 made available for review by the department and the department of revenue upon request. Such  
420 records shall be retained for five years from the date of the sale.

421 (4) The tax levied pursuant to this subsection is separate from, and in addition to, any  
422 general state and local sales and use taxes that apply to retail sales, which shall continue to be  
423 collected and distributed as provided by general law.

424 (5) Except as authorized in this subsection, no additional taxes shall be imposed on the  
425 sale of marijuana for medical use.

426 (6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully  
427 enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or  
428 restricting the taxes and fees provided for herein.

429 (7) The unexpended balance existing in the fund shall be exempt from the provisions of  
430 section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

431 5. Additional Patient, Physician, Caregiver and Provider Protections.

432 (1) Except as provided in this section, the possession of marijuana in quantities less than  
433 the limits of this section, or established by the department, and transportation of marijuana from  
434 a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the  
435 possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the  
436 possessor produces on demand to the appropriate authority a valid qualifying patient  
437 identification card; a valid qualifying patient cultivation identification card; a valid physician  
438 certification while making application for an identification card; or a valid primary caregiver

439 identification card. Production of the respective equivalent identification card or authorization  
440 issued by another state or political subdivision of another state shall also meet the requirements  
441 of this subdivision.

442 (2) No patient shall be denied access to or priority for an organ transplant because they  
443 hold a qualifying patient identification card or use marijuana for medical use.

444 (3) A physician shall not be subject to criminal or civil liability or sanctions under  
445 Missouri law or discipline by the Missouri state board of registration for the healing arts, or its  
446 successor agency, for owning, operating, investing in, being employed by, or contracting with  
447 any entity licensed or certified pursuant to this section or issuing a physician certification to a  
448 patient diagnosed with a qualifying medical condition in a manner consistent with this section  
449 and legal standards of professional conduct.

450 (4) A health care provider shall not be subject to civil or criminal prosecution under  
451 Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or  
452 disciplinary action by any accreditation or licensing board or commission for owning, operating,  
453 investing in, being employed by, or contracting with any entity licensed or certified pursuant to  
454 this section or providing health care services that involve the medical use of marijuana consistent  
455 with this section and legal standards of professional conduct.

456 (5) A medical marijuana testing facility shall not be subject to civil or criminal  
457 prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty  
458 or sanction, or disciplinary action by any accreditation or licensing board or commission for  
459 providing laboratory testing services that relate to the medical use of marijuana consistent with  
460 this section and otherwise meeting legal standards of professional conduct.

461 (6) A health care provider shall not be subject to mandatory reporting requirements for  
462 the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age  
463 in a manner consistent with this section and with consent of a parent or guardian.

464 (7) A primary caregiver shall not be subject to criminal or civil liability or sanctions  
465 under Missouri law for purchasing, transporting, or administering marijuana for medical use to  
466 a qualifying patient or participating in the patient cultivation of up to six flowering marijuana  
467 plants per patient in a manner consistent with this section and generally established legal  
468 standards of personal or professional conduct.

469 (8) An attorney shall not be subject to disciplinary action by the state bar association or  
470 other professional licensing body for owning, operating, investing in, being employed by,  
471 contracting with, or providing legal assistance to prospective or licensed medical marijuana  
472 testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities,  
473 medical marijuana-infused products manufacturing facilities, qualifying patients, primary

474 caregivers, physicians, health care providers or others related to activity that is no longer subject  
475 to criminal penalties under state law pursuant to this section.

476 (9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana  
477 testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products  
478 manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with  
479 the department, or their employees or agents, as permitted by this section and in compliance with  
480 department regulations and other standards of legal conduct, shall not be subject to criminal or  
481 civil liability or sanctions under Missouri law, except as provided for by this section.

482 (10) Nothing in this section shall provide immunity for negligence, either common law  
483 or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device,  
484 or navigating a boat under the influence of marijuana.

485 (11) It is the public policy of the state of Missouri that contracts related to marijuana for  
486 medical use that are entered into by qualifying patients, primary caregivers, medical marijuana  
487 testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products  
488 manufacturing facilities, or medical marijuana dispensary facilities and those who allow property  
489 to be used by those entities, should be enforceable. It is the public policy of the state of Missouri  
490 that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing  
491 facilities, medical marijuana cultivation facilities, medical marijuana-infused products  
492 manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows  
493 property to be used for activities that are exempt from state criminal penalties by this section,  
494 shall be unenforceable on the basis that activities related to medical marijuana may be prohibited  
495 by federal law.

496 6. Legislation.

497 Nothing in this section shall limit the general assembly from enacting laws consistent  
498 with this section, or otherwise effectuating the patient rights of this section. The legislature shall  
499 not enact laws that hinder the right of qualifying patients to access marijuana for medical use as  
500 granted by this section.

501 7. Additional Provisions.

502 (1) Nothing in this section permits a person to:

503 (a) Consume marijuana for medical use in a jail or correctional facility;

504 (b) Undertake any task under the influence of marijuana when doing so would constitute  
505 negligence or professional malpractice; or

506 (c) Operate, navigate, or be in actual physical control of any dangerous device or motor  
507 vehicle, aircraft or motorboat while under the influence of marijuana; or

508 (d) Bring a claim against any employer, former employer, or prospective employer for  
509 wrongful discharge, discrimination, or any similar cause of action or remedy, based on the

510 employer, former employer, or prospective employer prohibiting the employee, former employee,  
511 or prospective employee from being under the influence of marijuana while at work or  
512 disciplining the employee or former employee, up to and including termination from  
513 employment, for working or attempting to work while under the influence of marijuana.

514 (2) No medical marijuana cultivation facility, medical marijuana testing facility, medical  
515 marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or  
516 entity with a transportation certification shall be owned, in whole or in part, or have as an officer,  
517 director, board member, manager, or employee, any individual with a disqualifying felony  
518 offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state  
519 or federal law that is, or would have been, a felony under Missouri law, regardless of the  
520 sentence imposed, unless the department determines that:

521 (a) The person's conviction was for the medical use of marijuana or assisting in the  
522 medical use of marijuana; or

523 (b) The person's conviction was for a nonviolent crime for which he or she was not  
524 incarcerated and that is more than five years old; or

525 (c) More than five years have passed since the person was released from parole or  
526 probation, and he or she has not been convicted of any subsequent criminal offenses.

527 The department may consult with and rely on the records, advice and recommendations  
528 of the attorney general and the department of public safety, or their successor entities, in applying  
529 this subdivision.

530 (3) All medical marijuana cultivation facility, medical marijuana dispensary facility, and  
531 medical marijuana-infused products manufacturing facility licenses, entities with medical  
532 marijuana testing facility certifications, and entities with transportation certifications shall be  
533 held by entities that are majority owned by natural persons who have been citizens of the state  
534 of Missouri for at least one year prior to the application for such license or certification.  
535 Notwithstanding the foregoing, entities outside the state of Missouri may own a minority stake  
536 in such entities.

537 (4) No medical marijuana cultivation facility, medical marijuana dispensary facility, or  
538 medical marijuana-infused products manufacturing facility shall manufacture, package or label  
539 marijuana or marijuana-infused products in a false or misleading manner. No person shall sell  
540 any product in a manner designed to cause confusion between a marijuana or marijuana-infused  
541 product and any product not containing marijuana. A violation of this subdivision shall be  
542 punishable by an appropriate and proportional department sanction, up to and including loss of  
543 license.

544 (5) All edible marijuana-infused products shall be sold in individual, child-resistant  
545 containers that are labeled with dosage amounts, instructions for use, and estimated length of

546 effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly  
547 and conspicuously labeled, in a font size at least as large as the largest other font size used on  
548 the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation of this  
549 prohibition shall subject the violator to department sanctions, including an administrative  
550 penalty.

551 (6) No individual shall serve as the primary caregiver for more than three qualifying  
552 patients.

553 (7) No qualifying patient shall consume marijuana for medical use in a public place,  
554 unless provided by law. Violation of this prohibition shall subject the violator to sanctions as  
555 provided by general law.

556 (8) No person shall extract resins from marijuana using dangerous materials or  
557 combustible gases without a medical marijuana-infused products manufacturing facility license.  
558 Violation of this prohibition shall subject the violator to department sanctions, including an  
559 administrative penalty and, if applicable, loss of their identification card, certificate, or license  
560 for up to one year.

561 (9) All qualifying patient cultivation shall take place in an enclosed, locked facility that  
562 is equipped with security devices that permit access only by the qualifying patient or by such  
563 patient's primary caregiver. Two qualifying patients, who both hold valid qualifying patient  
564 cultivation identification cards, may share one enclosed, locked facility. No more than twelve  
565 qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated  
566 in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying  
567 patient cultivation identification card, in which case no more than eighteen flowering marijuana  
568 plants may be cultivated in a single, enclosed, locked facility.

569 (10) No medical marijuana cultivation facility, medical marijuana dispensary facility,  
570 medical marijuana-infused products manufacturing facility, medical marijuana testing facility,  
571 or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise  
572 transfer its license or certificate to any other entity without the express consent of the department,  
573 not to be unreasonably withheld.

574 (11) Unless allowed by the local government, no new medical marijuana cultivation  
575 facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical  
576 marijuana-infused products manufacturing facility shall be initially sited within one thousand  
577 feet of any then-existing elementary or secondary school, child day-care center, or church. No  
578 local government shall prohibit medical marijuana cultivation facilities, medical marijuana  
579 testing facilities, medical marijuana-infused products manufacturing facilities, or medical  
580 marijuana dispensary facilities, or entities with a transportation certification either expressly or  
581 through the enactment of ordinances or regulations that make their operation unduly burdensome

582 in the jurisdiction. However, local governments may enact ordinances or regulations not in  
583 conflict with this section, or with regulations enacted pursuant to this section, governing the  
584 time, place, and manner of operation of such facilities in the locality. A local government may  
585 establish civil penalties for violation of an ordinance or regulations governing the time, place,  
586 and manner of operation of a medical marijuana cultivation facility, medical marijuana testing  
587 facility, medical marijuana-infused products manufacturing facility, medical marijuana  
588 dispensary facility, or entity holding a transportation certification that may operate in such  
589 locality.

590 (12) Unless superseded by federal law or an amendment to this Constitution, a physician  
591 shall not certify a qualifying condition for a patient by any means other than providing a  
592 physician certification for the patient, whether handwritten, electronic, or in another commonly  
593 used format. A qualifying patient must obtain a new physician certification at least annually.

594 (13) A physician shall not issue a certification for the medical use of marijuana for a  
595 nonemancipated qualifying patient under the age of eighteen without the written consent of the  
596 qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient  
597 identification card on behalf of a nonemancipated qualifying patient under the age of eighteen  
598 without the written consent of the qualifying patient's parent or legal guardian. Such card shall  
599 be issued to one of the parents or guardians and not directly to the patient. Only a parent or  
600 guardian may serve as a primary caregiver for a nonemancipated qualifying patient under the age  
601 of eighteen. Only the qualifying patient's parent or guardian shall purchase or possess medical  
602 marijuana for a nonemancipated qualifying patient under the age of eighteen. A parent or  
603 guardian shall supervise the administration of medical marijuana to a nonemancipated qualifying  
604 patient under the age of eighteen.

605 (14) Nothing in this section shall be construed as mandating health insurance coverage  
606 of medical marijuana for qualifying patient use.

607 (15) Real and personal property used in the cultivation, manufacture, transport, testing,  
608 distribution, sale, and administration of marijuana for medical use or for activities otherwise in  
609 compliance with this section shall not be subject to asset forfeiture solely because of that use.

610 8. Severability.

611 The provisions of this section are severable, and if any clause, sentence, paragraph or  
612 section of this measure, or an application thereof, is adjudged invalid by any court of competent  
613 jurisdiction, the other provisions shall continue to be in effect to the fullest extent possible.

614 9. Effective Date.

615 The provisions of this section shall become effective on December 6, 2018.

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