

SECOND REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 142

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHIPMAN.

5732H.01I

DANA RADEMAN MILLER, Chief Clerk

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.

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
2 following the first Monday in November, 2022, or at a special election to be called by the
3 governor for that purpose, there is hereby submitted to the qualified voters of this state, for
4 adoption or rejection, the following amendment to Article XIV of the Constitution of the state
5 of Missouri:

Section A. Section 1, Article XIV, Constitution of Missouri, is repealed and one new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

Section 1. 1. Purposes.

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

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

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 criminal penalties, and to allow for the limited legal production, distribution, sale and
11 purchase of marijuana for medical use. This section is not intended to change current civil
12 and criminal laws governing the use of marijuana for nonmedical purposes. The section does
13 not allow for the 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
16 way 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
27 liability company, general or limited partnership, limited liability partnership, joint venture, or
28 any other 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
32 *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood
33 within the scientific community to constitute marijuana, as well as resin extracted from the
34 plant and marijuana-infused products. "Marijuana" or "marihuana" do not include industrial
35 hemp 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
37 from industrial hemp.

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

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

45 (8) "Medical marijuana dispensary facility" means a facility licensed by the
46 department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused

47 products, and drug paraphernalia used to administer marijuana as provided for in this section
48 to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a
49 medical marijuana testing facility, or a medical marijuana-infused products manufacturing
50 facility.

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

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

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

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

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

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

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

73 (a) Cancer;

74 (b) Epilepsy;

75 (c) Glaucoma;

76 (d) Intractable migraines unresponsive to other treatment;

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

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

82 (g) Human immunodeficiency virus or acquired immune deficiency syndrome;

83 (h) A chronic medical condition that is normally treated with a prescription
84 medication that could lead to physical or psychological dependence, when a physician
85 determines that medical use of marijuana could be effective in treating that condition and
86 would serve as a safer alternative to the prescription medication;

87 (i) Any terminal illness; or

88 (j) In the professional judgment of a physician, any other chronic, debilitating or other
89 medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis,
90 inflammatory bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies,
91 sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

92 (16) "Qualifying patient" means a Missouri resident diagnosed with at least one
93 qualifying medical condition.

94 3. Creating Patient Access to Medical Marijuana.

95 (1) In carrying out the implementation of this section, the department shall have the
96 authority to:

97 (a) Grant or refuse state licenses and certifications for the cultivation, manufacture,
98 dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided
99 by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of
100 this section or a rule promulgated pursuant to this section; and impose any administrative
101 penalty authorized by this section or any rule promulgated pursuant to this section.

102 (b) Promulgate rules and emergency rules necessary for the proper regulation and
103 control of the cultivation, manufacture, dispensing, and sale of marijuana for medical use and
104 for the enforcement of this section so long as patient access is not restricted unreasonably and
105 such rules are reasonably necessary for patient safety or to restrict access to only licensees
106 and qualifying patients.

107 (c) Develop such forms, certificates, licenses, identification cards, and applications as
108 are necessary for, or reasonably related to, the administration of this section or any of the
109 rules promulgated under this section;

110 (d) Require a seed-to-sale tracking system that tracks medical marijuana from either
111 the seed or immature plant stage until the medical marijuana or medical marijuana-infused
112 product is sold to a qualifying patient or primary caregiver to ensure that no medical
113 marijuana grown by a medical marijuana cultivation facility or manufactured by a medical
114 marijuana-infused products manufacturing facility is sold or otherwise transferred except by a
115 medical marijuana dispensary facility. The department shall certify, if possible, at least two
116 commercially available systems to licensees as compliant with its tracking standards and
117 issue standards for the creation or use of other systems by licensees.

118 (e) Issue standards for the secure transportation of marijuana and marijuana-infused
119 products. The department shall certify entities which demonstrate compliance with its

120 transportation standards to transport marijuana and marijuana-infused products to a medical
121 marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a
122 medical marijuana dispensary facility, a medical marijuana testing facility, or another entity
123 with a transportation certification. The department shall develop or adopt from any other
124 governmental agency such safety and security standards as are reasonably necessary for the
125 transportation of marijuana. Any entity licensed or certified pursuant to this section shall be
126 allowed to transport cannabis.

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

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

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

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

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

143 (iii) site security;

144 (iv) experience in a legal cannabis market;

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

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

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

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

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

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

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

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

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

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

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

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

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

175 (f) Prohibition of misrepresentation and unfair practices;

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

182 (h) Development of individual identification cards for owners, officers, managers,
183 contractors, employees, and other support staff of entities licensed or certified pursuant to this
184 section, including a fingerprint-based federal and state criminal record check in accordance
185 with U.S. Public Law 92-544, or its successor provisions, as may be required by the
186 department prior to issuing a card and procedures to ensure that cards for new applicants are
187 issued within fourteen days. Applicants licensed pursuant to this section shall submit
188 fingerprints to the Missouri state highway patrol for the purpose of conducting a state and
189 federal fingerprint-based criminal background check. The Missouri state highway patrol, if
190 necessary, shall forward the fingerprints to the Federal Bureau of Investigation (FBI) for the
191 purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be
192 submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;

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

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

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

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

204 (m) Labeling and packaging standards;

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

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

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

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

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

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

220 (4) The department shall issue rules or emergency rules to provide for the
221 certification of and standards for medical marijuana testing facilities, including the
222 requirements for equipment and qualifications for personnel, but shall not require
223 certificate holders to have any federal agency licensing or have any relationship with a
224 federally licensed testing facility. The department shall certify, if possible, at least two
225 entities as medical marijuana testing facilities. No medical marijuana testing facility shall be
226 owned by an entity under substantially common control, ownership, or management as a
227 medical marijuana cultivation facility, medical marijuana-infused product manufacturing
228 facility, or medical marijuana dispensary facility.

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

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

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

248 (8) An entity may apply to the department for and obtain one or more licenses to
249 grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall
250 require a separate license, but multiple licenses may be utilized in a single facility. Each
251 indoor facility utilizing artificial lighting may be limited by the department to thirty thousand
252 square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting
253 may be limited by the department to two thousand eight hundred flowering plants. Each
254 greenhouse facility using a combination of natural and artificial lighting may be limited by
255 the department, at the election of the licensee, to two thousand eight hundred flowering plants
256 or thirty thousand square feet of flowering plant canopy. The license shall be valid for three
257 years from its date of issuance and shall be renewable, except for good cause. The
258 department shall charge each applicant a nonrefundable fee of ten thousand dollars per license
259 application or renewal for all applicants filing an application within three years of December
260 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per
261 license application or renewal thereafter. Once granted, the department shall charge each
262 licensee an annual fee of twenty-five thousand dollars per facility license. Application and
263 license fees shall be increased or decreased each year by the percentage of increase or
264 decrease from the end of the previous calendar year of the Consumer Price Index, or
265 successor index as published by the U.S. Department of Labor, or its successor agency. No

266 more than three medical marijuana cultivation facility licenses shall be issued to any entity
267 under substantially common control, ownership, or management.

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

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

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

298 (12) Except for good cause, a qualifying patient or his or her primary caregiver may
299 obtain an identification card from the department to cultivate up to six flowering marijuana
300 plants for the exclusive use of that qualifying patient. The card shall be valid for twelve
301 months from its date of issuance and shall be renewable with the annual submittal of a new or
302 updated physician's certification. The department shall charge an annual fee for the card of

303 one hundred dollars, with such rate to be increased or decreased each year by the percentage
304 of increase or decrease from the end of the previous calendar year of the Consumer Price
305 Index, or successor index as published by the U.S. Department of Labor, or its successor
306 agency.

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

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

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

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

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

340 effective on December 6, 2018. Future changes to the boundaries of or the number of
341 congressional districts shall have no impact.

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

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

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

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

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

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

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

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

386 4. Taxation and Reporting.

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

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

407 (a) First, to the department, an amount necessary for the department to carry out this
408 section **but not to exceed two percent of taxes and fees collected**, including repayment of
409 any cash operating transfers, payments made through contract or agreement with other state
410 and public agencies necessary to carry out this section, and a reserve fund to maintain a
411 reasonable working cash balance for the purpose of carrying out this section;

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

414 purposes: operations, maintenance, and capital improvements of the Missouri veterans homes
415 **and construction of additional veterans homes**, the Missouri service officer's program, and
416 other services for veterans approved by the commission, including, but not limited to, health
417 care services, mental health services, **suicide prevention**, drug rehabilitation services,
418 housing assistance, job training, tuition assistance, and housing assistance to prevent
419 homelessness. The Missouri veterans commission shall contract with other public agencies
420 for the delivery of services beyond its expertise.

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

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

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

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

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

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

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

442 (1) Except as provided in this section, the possession of marijuana in quantities less
443 than the limits of this section, or established by the department, and transportation of
444 marijuana from a medical marijuana dispensary facility to the qualifying patient's residence
445 shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri
446 law, provided that the possessor produces on demand to the appropriate authority a valid
447 qualifying patient identification card; a valid qualifying patient cultivation identification card;
448 a valid physician certification while making application for an identification card; or a valid
449 primary caregiver identification card. Production of the respective equivalent identification

450 card or authorization issued by another state or political subdivision of another state shall also
451 meet the requirements of this subdivision.

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

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

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

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

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

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

480 (8) An attorney shall not be subject to disciplinary action by the state bar association
481 or other professional licensing body for owning, operating, investing in, being employed by,
482 contracting with, or providing legal assistance to prospective or licensed medical marijuana
483 testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary
484 facilities, medical marijuana-infused products manufacturing facilities, qualifying patients,
485 primary caregivers, physicians, health care providers or others related to activity that is no
486 longer subject to criminal penalties under state law pursuant to this section.

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

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

497 (11) It is the public policy of the state of Missouri that contracts related to marijuana
498 for medical use that are entered into by qualifying patients, primary caregivers, medical
499 marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-
500 infused products manufacturing facilities, or medical marijuana dispensary facilities and
501 those who allow property to be used by those entities, should be enforceable. It is the public
502 policy of the state of Missouri that no contract entered into by qualifying patients, primary
503 caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities,
504 medical marijuana-infused products manufacturing facilities, or medical marijuana
505 dispensary facilities, or by a person who allows property to be used for activities that are
506 exempt from state criminal penalties by this section, shall be unenforceable on the basis that
507 activities related to medical marijuana may be prohibited by federal law.

508 6. Legislation.

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

513 7. Additional Provisions.

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

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

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

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

520 (d) Bring a claim against any employer, former employer, or prospective employer
521 for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the
522 employer, former employer, or prospective employer prohibiting the employee, former
523 employee, or prospective employee from being under the influence of marijuana while at

524 work or disciplining the employee or former employee, up to and including termination from
525 employment, for working or attempting to work while under the influence of marijuana.

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

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

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

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

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

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

549 (4) No medical marijuana cultivation facility, medical marijuana dispensary facility,
550 or medical marijuana-infused products manufacturing facility shall manufacture, package or
551 label marijuana or marijuana-infused products in a false or misleading manner. No person
552 shall sell any product in a manner designed to cause confusion between a marijuana or
553 marijuana-infused product and any product not containing marijuana. A violation of this
554 subdivision shall be punishable by an appropriate and proportional department sanction, up to
555 and including loss of license.

556 (5) All edible marijuana-infused products shall be sold in individual, child-resistant
557 containers that are labeled with dosage amounts, instructions for use, and estimated length of
558 effectiveness. All marijuana and marijuana-infused products shall be sold in containers
559 clearly and conspicuously labeled, in a font size at least as large as the largest other font size
560 used on the package, as containing "Marijuana", or a "Marijuana-Infused Product". Violation

561 of this prohibition shall subject the violator to department sanctions, including an
562 administrative penalty.

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

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

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

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

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

586 (11) Unless allowed by the local government, no new medical marijuana cultivation
587 facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical
588 marijuana-infused products manufacturing facility shall be initially sited within one thousand
589 feet of any then-existing elementary or secondary school, child day-care center, or church.
590 No local government shall prohibit medical marijuana cultivation facilities, medical
591 marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or
592 medical marijuana dispensary facilities, or entities with a transportation certification either
593 expressly or through the enactment of ordinances or regulations that make their operation
594 unduly burdensome in the jurisdiction. However, local governments may enact ordinances or
595 regulations not in conflict with this section, or with regulations enacted pursuant to this
596 section, governing the time, place, and manner of operation of such facilities in the locality.
597 A local government may establish civil penalties for violation of an ordinance or regulations

598 governing the time, place, and manner of operation of a medical marijuana cultivation facility,
599 medical marijuana testing facility, medical marijuana-infused products manufacturing facility,
600 medical marijuana dispensary facility, or entity holding a transportation certification that may
601 operate in such locality.

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

607 (13) A physician shall not issue a certification for the medical use of marijuana for a
608 nonemancipated qualifying patient under the age of eighteen without the written consent of
609 the qualifying patient's parent or legal guardian. The department shall not issue a qualifying
610 patient identification card on behalf of a nonemancipated qualifying patient under the age of
611 eighteen without the written consent of the qualifying patient's parent or legal guardian. Such
612 card shall be issued to one of the parents or guardians and not directly to the patient. Only a
613 parent or guardian may serve as a primary caregiver for a nonemancipated qualifying patient
614 under the age of eighteen. Only the qualifying patient's parent or guardian shall purchase or
615 possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen.
616 A parent or guardian shall supervise the administration of medical marijuana to a
617 nonemancipated qualifying patient under the age of eighteen.

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

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

624 8. Severability.

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

629 9. Effective Date.

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

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