

SECOND REGULAR SESSION

SENATE BILL NO. 762

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAPPELLE-NADAL.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5007S.01I

AN ACT

To repeal sections 144.020, 144.021, and 144.030, RSMo, section 195.010 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 195.010 as enacted by house bill no. 641, ninety-sixth general assembly, first regular session, and to enact in lieu thereof thirty-three new sections relating to marijuana, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 144.020, 144.021, and 144.030, RSMo, section 195.010 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, and section 195.010 as enacted by house bill no. 641, ninety-sixth general assembly, first regular session, are repealed and thirty-three new sections enacted in lieu thereof, to be known as sections 144.020, 144.021, 144.030, 195.010, 195.1000, 195.1010, 195.1020, 195.1030, 195.1040, 195.1050, 195.1060, 195.1070, 195.1080, 195.1090, 195.1100, 195.1110, 195.1120, 195.1130, 195.1140, 195.1150, 195.1160, 195.1170, 195.1180, 195.1190, 195.1200, 195.1210, 195.1220, 195.1230, 195.1240, 195.1250, 195.1260, 195.1270, and 195.1280, to read as follows:

144.020. 1. A tax is hereby levied and imposed for the privilege of titling new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be titled under the laws of the state of Missouri and, except as provided in subdivision (9) of this subsection, upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

9 excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and
10 outboard motors required to be titled under the laws of the state of Missouri and
11 subject to tax under subdivision (9) of this subsection, a tax equivalent to four
12 percent of the purchase price paid or charged, or in case such sale involves the
13 exchange of property, a tax equivalent to four percent of the consideration paid
14 or charged, including the fair market value of the property exchanged at the time
15 and place of the exchange, except as otherwise provided in section 144.025;

16 (2) A tax equivalent to four percent of the amount paid for admission and
17 seating accommodations, or fees paid to, or in any place of amusement,
18 entertainment or recreation, games and athletic events;

19 (3) A tax equivalent to four percent of the basic rate paid or charged on
20 all sales of electricity or electrical current, water and gas, natural or artificial, to
21 domestic, commercial or industrial consumers;

22 (4) A tax equivalent to four percent on the basic rate paid or charged on
23 all sales of local and long distance telecommunications service to
24 telecommunications subscribers and to others through equipment of
25 telecommunications subscribers for the transmission of messages and
26 conversations and upon the sale, rental or leasing of all equipment or services
27 pertaining or incidental thereto; except that, the payment made by
28 telecommunications subscribers or others, pursuant to section 144.060, and any
29 amounts paid for access to the internet or interactive computer services shall not
30 be considered as amounts paid for telecommunications services;

31 (5) A tax equivalent to four percent of the basic rate paid or charged for
32 all sales of services for transmission of messages of telegraph companies;

33 (6) A tax equivalent to four percent on the amount of sales or charges for
34 all rooms, meals and drinks furnished at any hotel, motel, tavern, inn,
35 restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or
36 other place in which rooms, meals or drinks are regularly served to the
37 public. The tax imposed under this subdivision shall not apply to any automatic
38 mandatory gratuity for a large group imposed by a restaurant when such gratuity
39 is reported as employee tip income and the restaurant withholds income tax
40 under section 143.191 on such gratuity;

41 (7) A tax equivalent to four percent of the amount paid or charged for
42 intrastate tickets by every person operating a railroad, sleeping car, dining car,
43 express car, boat, airplane and such buses and trucks as are licensed by the
44 division of motor carrier and railroad safety of the department of economic

45 development of Missouri, engaged in the transportation of persons for hire;
46 (8) A tax equivalent to four percent of the amount paid or charged for
47 rental or lease of tangible personal property, provided that if the lessor or renter
48 of any tangible personal property had previously purchased the property under
49 the conditions of sale at retail or leased or rented the property and the tax was
50 paid at the time of purchase, lease or rental, the lessor, sublessor, renter or
51 subrenter shall not apply or collect the tax on the subsequent lease, sublease,
52 rental or subrental receipts from that property. The purchase, rental or lease of
53 motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard
54 motors shall be taxed and the tax paid as provided in this section and section
55 144.070. In no event shall the rental or lease of boats and outboard motors be
56 considered a sale, charge, or fee to, for or in places of amusement, entertainment
57 or recreation nor shall any such rental or lease be subject to any tax imposed to,
58 for, or in such places of amusement, entertainment or recreation. Rental and
59 leased boats or outboard motors shall be taxed under the provisions of the sales
60 tax laws as provided under such laws for motor vehicles and trailers. Tangible
61 personal property which is exempt from the sales or use tax under section
62 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the
63 lease or rental thereof;

64 (9) A tax equivalent to four percent of the purchase price, as defined in
65 section 144.070, of new and used motor vehicles, trailers, boats, and outboard
66 motors purchased or acquired for use on the highways or waters of this state
67 which are required to be registered under the laws of the state of Missouri. This
68 tax is imposed on the person titling such property, and shall be paid according
69 to the procedures in section 144.440.

70 2. All tickets sold which are sold under the provisions of sections 144.010
71 to 144.525 which are subject to the sales tax shall have printed, stamped or
72 otherwise endorsed thereon, the words "This ticket is subject to a sales tax."

73 **3. The provisions of subsection 1 of this section notwithstanding,**
74 **the rate of tax imposed on the retail sale of marijuana as defined in**
75 **section 195.1000 shall be equal to twelve point nine percent of the**
76 **purchase price paid or charged.**

144.021. 1. The purpose and intent of sections 144.010 to 144.510 is to
2 impose a tax upon the privilege of engaging in the business, in this state, of
3 selling tangible personal property and those services listed in section 144.020 and
4 for the privilege of titling new and used motor vehicles, trailers, boats, and

5 outboard motors purchased or acquired for use on the highways or waters of this
6 state which are required to be registered under the laws of the state of
7 Missouri. Except as otherwise provided, the primary tax burden is placed upon
8 the seller making the taxable sales of property or service and is levied at the rate
9 provided for in section 144.020. Excluding subdivision (9) of subsection 1 of
10 section 144.020 and sections 144.070, 144.440 and 144.450, the extent to which
11 a seller is required to collect the tax from the purchaser of the taxable property
12 or service is governed by section 144.285 and in no way affects sections 144.080
13 and 144.100, which require all sellers to report to the director of revenue their
14 "gross receipts", defined herein to mean the aggregate amount of the sales price
15 of all sales at retail, and remit tax at four percent, **or twelve point nine**
16 **percent when applicable**, of their gross receipts.

17 2. If any item of tangible personal property or service determined to be
18 taxable under the sales tax law or the compensating use tax law is modified by
19 a decision or order of:

- 20 (1) The director of revenue;
- 21 (2) The administrative hearing commission; or
- 22 (3) A court of competent jurisdiction;

23 which changes which items of tangible personal property or services are taxable,
24 and a reasonable person would not have expected the decision or order based
25 solely on prior law or regulation, all affected sellers shall be notified by the
26 department of revenue before such modification shall take effect for such
27 sellers. Failure of the department of revenue to notify a seller shall relieve such
28 seller of liability for taxes that would be due under the modification until the
29 seller is notified. The waiver of liability for taxes under this subsection shall only
30 apply to sellers actively selling the type of tangible personal property or service
31 affected by the decision on the date the decision or order is made or handed down
32 and shall not apply to any seller that has previously remitted tax on the tangible
33 personal property or taxable services subject to the decision or order or to any
34 seller that had prior notice that the seller must collect and remit the tax.

35 3. The notification required by subsection 2 of this section shall be
36 delivered by United States mail, electronic mail, or other secure electronic means
37 of direct communications. The department of revenue shall update its website
38 with information regarding modifications in sales tax law but such updates shall
39 not constitute a notification required by subsection 2 of this section.

144.030. 1. There is hereby specifically exempted from the provisions of

2 sections 144.010 to 144.525 and from the computation of the tax levied, assessed
3 or payable pursuant to sections 144.010 to 144.525 such retail sales as may be
4 made in commerce between this state and any other state of the United States,
5 or between this state and any foreign country, and any retail sale which the state
6 of Missouri is prohibited from taxing pursuant to the Constitution or laws of the
7 United States of America, and such retail sales of tangible personal property
8 which the general assembly of the state of Missouri is prohibited from taxing or
9 further taxing by the constitution of this state.

10 2. There are also specifically exempted from the provisions of the local
11 sales tax law as defined in section 32.085, section 238.235, and sections 144.010
12 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied,
13 assessed or payable pursuant to the local sales tax law as defined in section
14 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

15 (1) Motor fuel or special fuel subject to an excise tax of this state, unless
16 all or part of such excise tax is refunded pursuant to section 142.824; or upon the
17 sale at retail of fuel to be consumed in manufacturing or creating gas, power,
18 steam, electrical current or in furnishing water to be sold ultimately at retail; or
19 feed for livestock or poultry; or grain to be converted into foodstuffs which are to
20 be sold ultimately in processed form at retail; or seed, limestone or fertilizer
21 which is to be used for seeding, liming or fertilizing crops which when harvested
22 will be sold at retail or will be fed to livestock or poultry to be sold ultimately in
23 processed form at retail; economic poisons registered pursuant to the provisions
24 of the Missouri pesticide registration law (sections 281.220 to 281.310) which are
25 to be used in connection with the growth or production of crops, fruit trees or
26 orchards applied before, during, or after planting, the crop of which when
27 harvested will be sold at retail or will be converted into foodstuffs which are to
28 be sold ultimately in processed form at retail;

29 (2) Materials, manufactured goods, machinery and parts which when used
30 in manufacturing, processing, compounding, mining, producing or fabricating
31 become a component part or ingredient of the new personal property resulting
32 from such manufacturing, processing, compounding, mining, producing or
33 fabricating and which new personal property is intended to be sold ultimately for
34 final use or consumption; and materials, including without limitation, gases and
35 manufactured goods, including without limitation slagging materials and
36 firebrick, which are ultimately consumed in the manufacturing process by
37 blending, reacting or interacting with or by becoming, in whole or in part,

38 component parts or ingredients of steel products intended to be sold ultimately
39 for final use or consumption;

40 (3) Materials, replacement parts and equipment purchased for use directly
41 upon, and for the repair and maintenance or manufacture of, motor vehicles,
42 watercraft, railroad rolling stock or aircraft engaged as common carriers of
43 persons or property;

44 (4) Motor vehicles registered in excess of fifty-four thousand pounds, and
45 the trailers pulled by such motor vehicles, that are actually used in the normal
46 course of business to haul property on the public highways of the state, and that
47 are capable of hauling loads commensurate with the motor vehicle's registered
48 weight; and the materials, replacement parts, and equipment purchased for use
49 directly upon, and for the repair and maintenance or manufacture of such
50 vehicles. For purposes of this subdivision, "motor vehicle" and "public highway"
51 shall have the meaning as ascribed in section 390.020;

52 (5) Replacement machinery, equipment, and parts and the materials and
53 supplies solely required for the installation or construction of such replacement
54 machinery, equipment, and parts, used directly in manufacturing, mining,
55 fabricating or producing a product which is intended to be sold ultimately for
56 final use or consumption; and machinery and equipment, and the materials and
57 supplies required solely for the operation, installation or construction of such
58 machinery and equipment, purchased and used to establish new, or to replace or
59 expand existing, material recovery processing plants in this state. For the
60 purposes of this subdivision, a "material recovery processing plant" means a
61 facility that has as its primary purpose the recovery of materials into a usable
62 product or a different form which is used in producing a new product and shall
63 include a facility or equipment which are used exclusively for the collection of
64 recovered materials for delivery to a material recovery processing plant but shall
65 not include motor vehicles used on highways. For purposes of this section, the
66 terms motor vehicle and highway shall have the same meaning pursuant to
67 section 301.010. Material recovery is not the reuse of materials within a
68 manufacturing process or the use of a product previously recovered. The material
69 recovery processing plant shall qualify under the provisions of this section
70 regardless of ownership of the material being recovered;

71 (6) Machinery and equipment, and parts and the materials and supplies
72 solely required for the installation or construction of such machinery and
73 equipment, purchased and used to establish new or to expand existing

74 manufacturing, mining or fabricating plants in the state if such machinery and
75 equipment is used directly in manufacturing, mining or fabricating a product
76 which is intended to be sold ultimately for final use or consumption;

77 (7) Tangible personal property which is used exclusively in the
78 manufacturing, processing, modification or assembling of products sold to the
79 United States government or to any agency of the United States government;

80 (8) Animals or poultry used for breeding or feeding purposes, or captive
81 wildlife;

82 (9) Newsprint, ink, computers, photosensitive paper and film, toner,
83 printing plates and other machinery, equipment, replacement parts and supplies
84 used in producing newspapers published for dissemination of news to the general
85 public;

86 (10) The rentals of films, records or any type of sound or picture
87 transcriptions for public commercial display;

88 (11) Pumping machinery and equipment used to propel products delivered
89 by pipelines engaged as common carriers;

90 (12) Railroad rolling stock for use in transporting persons or property in
91 interstate commerce and motor vehicles licensed for a gross weight of twenty-four
92 thousand pounds or more or trailers used by common carriers, as defined in
93 section 390.020, in the transportation of persons or property;

94 (13) Electrical energy used in the actual primary manufacture, processing,
95 compounding, mining or producing of a product, or electrical energy used in the
96 actual secondary processing or fabricating of the product, or a material recovery
97 processing plant as defined in subdivision (5) of this subsection, in facilities
98 owned or leased by the taxpayer, if the total cost of electrical energy so used
99 exceeds ten percent of the total cost of production, either primary or secondary,
100 exclusive of the cost of electrical energy so used or if the raw materials used in
101 such processing contain at least twenty-five percent recovered materials as
102 defined in section 260.200. There shall be a rebuttable presumption that the raw
103 materials used in the primary manufacture of automobiles contain at least
104 twenty-five percent recovered materials. For purposes of this subdivision,
105 "processing" means any mode of treatment, act or series of acts performed upon
106 materials to transform and reduce them to a different state or thing, including
107 treatment necessary to maintain or preserve such processing by the producer at
108 the production facility;

109 (14) Anodes which are used or consumed in manufacturing, processing,

110 compounding, mining, producing or fabricating and which have a useful life of
111 less than one year;

112 (15) Machinery, equipment, appliances and devices purchased or leased
113 and used solely for the purpose of preventing, abating or monitoring air pollution,
114 and materials and supplies solely required for the installation, construction or
115 reconstruction of such machinery, equipment, appliances and devices;

116 (16) Machinery, equipment, appliances and devices purchased or leased
117 and used solely for the purpose of preventing, abating or monitoring water
118 pollution, and materials and supplies solely required for the installation,
119 construction or reconstruction of such machinery, equipment, appliances and
120 devices;

121 (17) Tangible personal property purchased by a rural water district;

122 (18) All amounts paid or charged for admission or participation or other
123 fees paid by or other charges to individuals in or for any place of amusement,
124 entertainment or recreation, games or athletic events, including museums, fairs,
125 zoos and planetariums, owned or operated by a municipality or other political
126 subdivision where all the proceeds derived therefrom benefit the municipality or
127 other political subdivision and do not inure to any private person, firm, or
128 corporation, provided, however, that a municipality or other political subdivision
129 may enter into revenue-sharing agreements with private persons, firms, or
130 corporations providing goods or services, including management services, in or for
131 the place of amusement, entertainment or recreation, games or athletic events,
132 and provided further that nothing in this subdivision shall exempt from tax any
133 amounts retained by any private person, firm, or corporation under such
134 revenue-sharing agreement;

135 (19) All sales of insulin and prosthetic or orthopedic devices as defined on
136 January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the
137 Social Security Act of 1965, including the items specified in Section 1862(a)(12)
138 of that act, and also specifically including hearing aids and hearing aid supplies
139 and all sales of drugs which may be legally dispensed by a licensed pharmacist
140 only upon a lawful prescription of a practitioner licensed to administer those
141 items, including samples and materials used to manufacture samples which may
142 be dispensed by a practitioner authorized to dispense such samples and all sales
143 or rental of medical oxygen, home respiratory equipment and accessories, hospital
144 beds and accessories and ambulatory aids, all sales or rental of manual and
145 powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment

146 and, if purchased or rented by or on behalf of a person with one or more physical
147 or mental disabilities to enable them to function more independently, all sales or
148 rental of scooters, reading machines, electronic print enlargers and magnifiers,
149 electronic alternative and augmentative communication devices, and items used
150 solely to modify motor vehicles to permit the use of such motor vehicles by
151 individuals with disabilities or sales of over-the-counter or nonprescription drugs
152 to individuals with disabilities, and drugs required by the Food and Drug
153 Administration to meet the over-the-counter drug product labeling requirements
154 in 21 CFR 201.66, or its successor, as prescribed by a health care practitioner
155 licensed to prescribe. **The exemptions provided by this subdivision shall**
156 **not apply to the sale of retail marijuana as defined in section 195.1000;**

157 (20) All sales made by or to religious and charitable organizations and
158 institutions in their religious, charitable or educational functions and activities
159 and all sales made by or to all elementary and secondary schools operated at
160 public expense in their educational functions and activities;

161 (21) All sales of aircraft to common carriers for storage or for use in
162 interstate commerce and all sales made by or to not-for-profit civic, social, service
163 or fraternal organizations, including fraternal organizations which have been
164 declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the
165 1986 Internal Revenue Code, as amended, in their civic or charitable functions
166 and activities and all sales made to eleemosynary and penal institutions and
167 industries of the state, and all sales made to any private not-for-profit institution
168 of higher education not otherwise excluded pursuant to subdivision (20) of this
169 subsection or any institution of higher education supported by public funds, and
170 all sales made to a state relief agency in the exercise of relief functions and
171 activities;

172 (22) All ticket sales made by benevolent, scientific and educational
173 associations which are formed to foster, encourage, and promote progress and
174 improvement in the science of agriculture and in the raising and breeding of
175 animals, and by nonprofit summer theater organizations if such organizations are
176 exempt from federal tax pursuant to the provisions of the Internal Revenue Code
177 and all admission charges and entry fees to the Missouri state fair or any fair
178 conducted by a county agricultural and mechanical society organized and
179 operated pursuant to sections 262.290 to 262.530;

180 (23) All sales made to any private not-for-profit elementary or secondary
181 school, all sales of feed additives, medications or vaccines administered to

182 livestock or poultry in the production of food or fiber, all sales of pesticides used
183 in the production of crops, livestock or poultry for food or fiber, all sales of
184 bedding used in the production of livestock or poultry for food or fiber, all sales
185 of propane or natural gas, electricity or diesel fuel used exclusively for drying
186 agricultural crops, natural gas used in the primary manufacture or processing of
187 fuel ethanol as defined in section 142.028, natural gas, propane, and electricity
188 used by an eligible new generation cooperative or an eligible new generation
189 processing entity as defined in section 348.432, and all sales of farm machinery
190 and equipment, other than airplanes, motor vehicles and trailers, and any freight
191 charges on any exempt item. As used in this subdivision, the term "feed
192 additives" means tangible personal property which, when mixed with feed for
193 livestock or poultry, is to be used in the feeding of livestock or poultry. As used
194 in this subdivision, the term "pesticides" includes adjuvants such as crop oils,
195 surfactants, wetting agents and other assorted pesticide carriers used to improve
196 or enhance the effect of a pesticide and the foam used to mark the application of
197 pesticides and herbicides for the production of crops, livestock or poultry. As
198 used in this subdivision, the term "farm machinery and equipment" means new
199 or used farm tractors and such other new or used farm machinery and equipment
200 and repair or replacement parts thereon and any accessories for and upgrades to
201 such farm machinery and equipment, rotary mowers used exclusively for
202 agricultural purposes, and supplies and lubricants used exclusively, solely, and
203 directly for producing crops, raising and feeding livestock, fish, poultry,
204 pheasants, chukar, quail, or for producing milk for ultimate sale at retail,
205 including field drain tile, and one-half of each purchaser's purchase of diesel fuel
206 therefor which is:

207 (a) Used exclusively for agricultural purposes;

208 (b) Used on land owned or leased for the purpose of producing farm
209 products; and

210 (c) Used directly in producing farm products to be sold ultimately in
211 processed form or otherwise at retail or in producing farm products to be fed to
212 livestock or poultry to be sold ultimately in processed form at retail;

213 (24) Except as otherwise provided in section 144.032, all sales of metered
214 water service, electricity, electrical current, natural, artificial or propane gas,
215 wood, coal or home heating oil for domestic use and in any city not within a
216 county, all sales of metered or unmetered water service for domestic use:

217 (a) "Domestic use" means that portion of metered water service,

218 electricity, electrical current, natural, artificial or propane gas, wood, coal or
219 home heating oil, and in any city not within a county, metered or unmetered
220 water service, which an individual occupant of a residential premises uses for
221 nonbusiness, noncommercial or nonindustrial purposes. Utility service through
222 a single or master meter for residential apartments or condominiums, including
223 service for common areas and facilities and vacant units, shall be deemed to be
224 for domestic use. Each seller shall establish and maintain a system whereby
225 individual purchases are determined as exempt or nonexempt;

226 (b) Regulated utility sellers shall determine whether individual purchases
227 are exempt or nonexempt based upon the seller's utility service rate
228 classifications as contained in tariffs on file with and approved by the Missouri
229 public service commission. Sales and purchases made pursuant to the rate
230 classification "residential" and sales to and purchases made by or on behalf of the
231 occupants of residential apartments or condominiums through a single or master
232 meter, including service for common areas and facilities and vacant units, shall
233 be considered as sales made for domestic use and such sales shall be exempt from
234 sales tax. Sellers shall charge sales tax upon the entire amount of purchases
235 classified as nondomestic use. The seller's utility service rate classification and
236 the provision of service thereunder shall be conclusive as to whether or not the
237 utility must charge sales tax;

238 (c) Each person making domestic use purchases of services or property
239 and who uses any portion of the services or property so purchased for a
240 nondomestic use shall, by the fifteenth day of the fourth month following the year
241 of purchase, and without assessment, notice or demand, file a return and pay
242 sales tax on that portion of nondomestic purchases. Each person making
243 nondomestic purchases of services or property and who uses any portion of the
244 services or property so purchased for domestic use, and each person making
245 domestic purchases on behalf of occupants of residential apartments or
246 condominiums through a single or master meter, including service for common
247 areas and facilities and vacant units, under a nonresidential utility service rate
248 classification may, between the first day of the first month and the fifteenth day
249 of the fourth month following the year of purchase, apply for credit or refund to
250 the director of revenue and the director shall give credit or make refund for taxes
251 paid on the domestic use portion of the purchase. The person making such
252 purchases on behalf of occupants of residential apartments or condominiums shall
253 have standing to apply to the director of revenue for such credit or refund;

254 (25) All sales of handicraft items made by the seller or the seller's spouse
255 if the seller or the seller's spouse is at least sixty-five years of age, and if the total
256 gross proceeds from such sales do not constitute a majority of the annual gross
257 income of the seller;

258 (26) Excise taxes, collected on sales at retail, imposed by Sections 4041,
259 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United
260 States Code. The director of revenue shall promulgate rules pursuant to chapter
261 536 to eliminate all state and local sales taxes on such excise taxes;

262 (27) Sales of fuel consumed or used in the operation of ships, barges, or
263 waterborne vessels which are used primarily in or for the transportation of
264 property or cargo, or the conveyance of persons for hire, on navigable rivers
265 bordering on or located in part in this state, if such fuel is delivered by the seller
266 to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such
267 river;

268 (28) All sales made to an interstate compact agency created pursuant to
269 sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the
270 functions and activities of such agency as provided pursuant to the compact;

271 (29) Computers, computer software and computer security systems
272 purchased for use by architectural or engineering firms headquartered in this
273 state. For the purposes of this subdivision, "headquartered in this state" means
274 the office for the administrative management of at least four integrated facilities
275 operated by the taxpayer is located in the state of Missouri;

276 (30) All livestock sales when either the seller is engaged in the growing,
277 producing or feeding of such livestock, or the seller is engaged in the business of
278 buying and selling, bartering or leasing of such livestock;

279 (31) All sales of barges which are to be used primarily in the
280 transportation of property or cargo on interstate waterways;

281 (32) Electrical energy or gas, whether natural, artificial or propane, water,
282 or other utilities which are ultimately consumed in connection with the
283 manufacturing of cellular glass products or in any material recovery processing
284 plant as defined in subdivision (5) of this subsection;

285 (33) Notwithstanding other provisions of law to the contrary, all sales of
286 pesticides or herbicides used in the production of crops, aquaculture, livestock or
287 poultry;

288 (34) Tangible personal property and utilities purchased for use or
289 consumption directly or exclusively in the research and development of

290 agricultural/biotechnology and plant genomics products and prescription
291 pharmaceuticals consumed by humans or animals;

292 (35) All sales of grain bins for storage of grain for resale;

293 (36) All sales of feed which are developed for and used in the feeding of
294 pets owned by a commercial breeder when such sales are made to a commercial
295 breeder, as defined in section 273.325, and licensed pursuant to sections 273.325
296 to 273.357;

297 (37) All purchases by a contractor on behalf of an entity located in another
298 state, provided that the entity is authorized to issue a certificate of exemption for
299 purchases to a contractor under the provisions of that state's laws. For purposes
300 of this subdivision, the term "certificate of exemption" shall mean any document
301 evidencing that the entity is exempt from sales and use taxes on purchases
302 pursuant to the laws of the state in which the entity is located. Any contractor
303 making purchases on behalf of such entity shall maintain a copy of the entity's
304 exemption certificate as evidence of the exemption. If the exemption certificate
305 issued by the exempt entity to the contractor is later determined by the director
306 of revenue to be invalid for any reason and the contractor has accepted the
307 certificate in good faith, neither the contractor or the exempt entity shall be liable
308 for the payment of any taxes, interest and penalty due as the result of use of the
309 invalid exemption certificate. Materials shall be exempt from all state and local
310 sales and use taxes when purchased by a contractor for the purpose of fabricating
311 tangible personal property which is used in fulfilling a contract for the purpose
312 of constructing, repairing or remodeling facilities for the following:

313 (a) An exempt entity located in this state, if the entity is one of those
314 entities able to issue project exemption certificates in accordance with the
315 provisions of section 144.062; or

316 (b) An exempt entity located outside the state if the exempt entity is
317 authorized to issue an exemption certificate to contractors in accordance with the
318 provisions of that state's law and the applicable provisions of this section;

319 (38) All sales or other transfers of tangible personal property to a lessor
320 who leases the property under a lease of one year or longer executed or in effect
321 at the time of the sale or other transfer to an interstate compact agency created
322 pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

323 (39) Sales of tickets to any collegiate athletic championship event that is
324 held in a facility owned or operated by a governmental authority or commission,
325 a quasi-governmental agency, a state university or college or by the state or any

326 political subdivision thereof, including a municipality, and that is played on a
327 neutral site and may reasonably be played at a site located outside the state of
328 Missouri. For purposes of this subdivision, "neutral site" means any site that is
329 not located on the campus of a conference member institution participating in the
330 event;

331 (40) All purchases by a sports complex authority created under section
332 64.920, and all sales of utilities by such authority at the authority's cost that are
333 consumed in connection with the operation of a sports complex leased to a
334 professional sports team;

335 (41) All materials, replacement parts, and equipment purchased for use
336 directly upon, and for the modification, replacement, repair, and maintenance of
337 aircraft, aircraft power plants, and aircraft accessories;

338 (42) Sales of sporting clays, wobble, skeet, and trap targets to any
339 shooting range or similar places of business for use in the normal course of
340 business and money received by a shooting range or similar places of business
341 from patrons and held by a shooting range or similar place of business for
342 redistribution to patrons at the conclusion of a shooting event;

343 (43) All sales of motor fuel, as defined in section 142.800, used in any
344 watercraft, as defined in section 306.010;

345 (44) Any new or used aircraft sold or delivered in this state to a person
346 who is not a resident of this state or a corporation that is not incorporated in this
347 state, and such aircraft is not to be based in this state and shall not remain in
348 this state more than ten business days subsequent to the last to occur of:

349 (a) The transfer of title to the aircraft to a person who is not a resident
350 of this state or a corporation that is not incorporated in this state; or

351 (b) The date of the return to service of the aircraft in accordance with 14
352 CFR 91.407 for any maintenance, preventive maintenance, rebuilding, alterations,
353 repairs, or installations that are completed contemporaneously with the transfer
354 of title to the aircraft to a person who is not a resident of this state or a
355 corporation that is not incorporated in this state.

356 3. Any ruling, agreement, or contract, whether written or oral, express or
357 implied, between a person and this state's executive branch, or any other state
358 agency or department, stating, agreeing, or ruling that such person is not
359 required to collect sales and use tax in this state despite the presence of a
360 warehouse, distribution center, or fulfillment center in this state that is owned
361 or operated by the person or an affiliated person shall be null and void unless it

362 is specifically approved by a majority vote of each of the houses of the general
363 assembly. For purposes of this subsection, an "affiliated person" means any
364 person that is a member of the same controlled group of corporations as defined
365 in Section 1563(a) of the Internal Revenue Code of 1986, as amended, as the
366 vendor or any other entity that, notwithstanding its form of organization, bears
367 the same ownership relationship to the vendor as a corporation that is a member
368 of the same controlled group of corporations as defined in Section 1563(a) of the
369 Internal Revenue Code, as amended.

195.010. The following words and phrases as used in this chapter and
2 chapter 579, unless the context otherwise requires, mean:

3 (1) "Addict", a person who habitually uses one or more controlled
4 substances to such an extent as to create a tolerance for such drugs, and who does
5 not have a medical need for such drugs, or who is so far addicted to the use of
6 such drugs as to have lost the power of self-control with reference to his or her
7 addiction;

8 (2) "Administer", to apply a controlled substance, whether by injection,
9 inhalation, ingestion, or any other means, directly to the body of a patient or
10 research subject by:

11 (a) A practitioner (or, in his or her presence, by his or her authorized
12 agent); or

13 (b) The patient or research subject at the direction and in the presence of
14 the practitioner;

15 (3) "Agent", an authorized person who acts on behalf of or at the direction
16 of a manufacturer, distributor, or dispenser. The term does not include a common
17 or contract carrier, public warehouseman, or employee of the carrier or
18 warehouseman while acting in the usual and lawful course of the carrier's or
19 warehouseman's business;

20 (4) "Attorney for the state", any prosecuting attorney, circuit attorney, or
21 attorney general authorized to investigate, commence and prosecute an action
22 under this chapter;

23 (5) "Controlled substance", a drug, substance, or immediate precursor in
24 Schedules I through V listed in this chapter;

25 (6) "Controlled substance analogue", a substance the chemical structure
26 of which is substantially similar to the chemical structure of a controlled
27 substance in Schedule I or II and:

28 (a) Which has a stimulant, depressant, or hallucinogenic effect on the

29 central nervous system substantially similar to the stimulant, depressant, or
30 hallucinogenic effect on the central nervous system of a controlled substance
31 included in Schedule I or II; or

32 (b) With respect to a particular individual, which that individual
33 represents or intends to have a stimulant, depressant, or hallucinogenic effect on
34 the central nervous system substantially similar to the stimulant, depressant, or
35 hallucinogenic effect on the central nervous system of a controlled substance
36 included in Schedule I or II. The term does not include a controlled substance;
37 any substance for which there is an approved new drug application; any
38 substance for which an exemption is in effect for investigational use, for a
39 particular person, under Section 505 of the federal Food, Drug and Cosmetic Act
40 (21 U.S.C. Section 355) to the extent conduct with respect to the substance is
41 pursuant to the exemption; or any substance to the extent not intended for
42 human consumption before such an exemption takes effect with respect to the
43 substance;

44 (7) "Counterfeit substance", a controlled substance which, or the container
45 or labeling of which, without authorization, bears the trademark, trade name, or
46 other identifying mark, imprint, number or device, or any likeness thereof, of a
47 manufacturer, distributor, or dispenser other than the person who in fact
48 manufactured, distributed, or dispensed the substance;

49 (8) "Deliver" or "delivery", the actual, constructive, or attempted transfer
50 from one person to another of drug paraphernalia or of a controlled substance, or
51 an imitation controlled substance, whether or not there is an agency relationship,
52 and includes a sale;

53 (9) "Dentist", a person authorized by law to practice dentistry in this
54 state;

55 (10) "Depressant or stimulant substance":

56 (a) A drug containing any quantity of barbituric acid or any of the salts
57 of barbituric acid or any derivative of barbituric acid which has been designated
58 by the United States Secretary of Health and Human Services as habit forming
59 under 21 U.S.C. Section 352(d);

60 (b) A drug containing any quantity of:

61 a. Amphetamine or any of its isomers;

62 b. Any salt of amphetamine or any salt of an isomer of amphetamine; or

63 c. Any substance the United States Attorney General, after investigation,
64 has found to be, and by regulation designated as, habit forming because of its

65 stimulant effect on the central nervous system;

66 (c) Lysergic acid diethylamide; or

67 (d) Any drug containing any quantity of a substance that the United
68 States Attorney General, after investigation, has found to have, and by regulation
69 designated as having, a potential for abuse because of its depressant or stimulant
70 effect on the central nervous system or its hallucinogenic effect;

71 (11) "Dispense", to deliver a narcotic or controlled dangerous drug to an
72 ultimate user or research subject by or pursuant to the lawful order of a
73 practitioner including the prescribing, administering, packaging, labeling, or
74 compounding necessary to prepare the substance for such delivery. "Dispenser"
75 means a practitioner who dispenses;

76 (12) "Distribute", to deliver other than by administering or dispensing a
77 controlled substance;

78 (13) "Distributor", a person who distributes;

79 (14) "Drug":

80 (a) Substances recognized as drugs in the official United States
81 Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or
82 Official National Formulary, or any supplement to any of them;

83 (b) Substances intended for use in the diagnosis, cure, mitigation,
84 treatment or prevention of disease in humans or animals;

85 (c) Substances, other than food, intended to affect the structure or any
86 function of the body of humans or animals; and

87 (d) Substances intended for use as a component of any article specified in
88 this subdivision. It does not include devices or their components, parts or
89 accessories;

90 (15) "Drug-dependent person", a person who is using a controlled
91 substance and who is in a state of psychic or physical dependence, or both, arising
92 from the use of such substance on a continuous basis. Drug dependence is
93 characterized by behavioral and other responses which include a strong
94 compulsion to take the substance on a continuous basis in order to experience its
95 psychic effects or to avoid the discomfort caused by its absence;

96 (16) "Drug enforcement agency", the Drug Enforcement Administration in
97 the United States Department of Justice, or its successor agency;

98 (17) "Drug paraphernalia", all equipment, products, substances and
99 materials of any kind which are used, intended for use, or designed for use, in
100 planting, propagating, cultivating, growing, harvesting, manufacturing,

101 compounding, converting, producing, processing, preparing, storing, containing,
102 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human
103 body a controlled substance or an imitation controlled substance in violation of
104 this chapter or chapter 579. It includes, but is not limited to:

105 (a) Kits used, intended for use, or designed for use in planting,
106 propagating, cultivating, growing or harvesting of any species of plant which is
107 a controlled substance or from which a controlled substance can be derived;

108 (b) Kits used, intended for use, or designed for use in manufacturing,
109 compounding, converting, producing, processing, or preparing controlled
110 substances or imitation controlled substances;

111 (c) Isomerization devices used, intended for use, or designed for use in
112 increasing the potency of any species of plant which is a controlled substance or
113 an imitation controlled substance;

114 (d) Testing equipment used, intended for use, or designed for use in
115 identifying, or in analyzing the strength, effectiveness or purity of controlled
116 substances or imitation controlled substances;

117 (e) Scales and balances used, intended for use, or designed for use in
118 weighing or measuring controlled substances or imitation controlled substances;

119 (f) Dilutents and adulterants, such as quinine hydrochloride, mannitol,
120 mannite, dextrose and lactose, used, intended for use, or designed for use in
121 cutting controlled substances or imitation controlled substances;

122 (g) [Separation gins and sifters used, intended for use, or designed for use
123 in removing twigs and seeds from, or in otherwise cleaning or refining,
124 marijuana;

125 (h)] Blenders, bowls, containers, spoons and mixing devices used, intended
126 for use, or designed for use in compounding controlled substances or imitation
127 controlled substances;

128 [(i)] (h) Capsules, balloons, envelopes and other containers used,
129 intended for use, or designed for use in packaging small quantities of controlled
130 substances or imitation controlled substances;

131 [(j)] (i) Containers and other objects used, intended for use, or designed
132 for use in storing or concealing controlled substances or imitation controlled
133 substances;

134 [(k)] (j) Hypodermic syringes, needles and other objects used, intended
135 for use, or designed for use in parenterally injecting controlled substances or
136 imitation controlled substances into the human body;

137 **[(l)] (k)** Objects used, intended for use, or designed for use in ingesting,
138 inhaling, or otherwise introducing [marijuana,] cocaine, hashish, or hashish oil
139 into the human body, such as:

- 140 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or
141 without screens, permanent screens, hashish heads, or punctured metal bowls;
- 142 b. Water pipes;
- 143 c. Carburetion tubes and devices;
- 144 d. Smoking and carburetion masks;
- 145 e. Roach clips meaning objects used to hold burning material[, such as a
146 marijuana cigarette,] that has become too small or too short to be held in the
147 hand;
- 148 f. Miniature cocaine spoons and cocaine vials;
- 149 g. Chamber pipes;
- 150 h. Carburetor pipes;
- 151 i. Electric pipes;
- 152 j. Air-driven pipes;
- 153 k. Chillums;
- 154 l. Bongs;
- 155 m. Ice pipes or chillers;

156 **[(m)] (l)** Substances used, intended for use, or designed for use in the
157 manufacture of a controlled substance;

158 In determining whether an object, product, substance or material is drug
159 paraphernalia, a court or other authority should consider, in addition to all other
160 logically relevant factors, the following:

- 161 a. Statements by an owner or by anyone in control of the object concerning
162 its use;
- 163 b. Prior convictions, if any, of an owner, or of anyone in control of the
164 object, under any state or federal law relating to any controlled substance or
165 imitation controlled substance;
- 166 c. The proximity of the object, in time and space, to a direct violation of
167 this chapter or chapter 579;
- 168 d. The proximity of the object to controlled substances or imitation
169 controlled substances;
- 170 e. The existence of any residue of controlled substances or imitation
171 controlled substances on the object;
- 172 f. Direct or circumstantial evidence of the intent of an owner, or of anyone

173 in control of the object, to deliver it to persons who he or she knows, or should
174 reasonably know, intend to use the object to facilitate a violation of this chapter
175 or chapter 579; the innocence of an owner, or of anyone in control of the object,
176 as to direct violation of this chapter or chapter 579 shall not prevent a finding
177 that the object is intended for use, or designed for use as drug paraphernalia;

178 g. Instructions, oral or written, provided with the object concerning its
179 use;

180 h. Descriptive materials accompanying the object which explain or depict
181 its use;

182 i. National or local advertising concerning its use;

183 j. The manner in which the object is displayed for sale;

184 k. Whether the owner, or anyone in control of the object, is a legitimate
185 supplier of like or related items to the community, such as a licensed distributor
186 or dealer of tobacco products;

187 l. Direct or circumstantial evidence of the ratio of sales of the object to the
188 total sales of the business enterprise;

189 m. The existence and scope of legitimate uses for the object in the
190 community;

191 n. Expert testimony concerning its use;

192 o. The quantity, form or packaging of the product, substance or material
193 in relation to the quantity, form or packaging associated with any legitimate use
194 for the product, substance or material;

195 (18) "Federal narcotic laws", the laws of the United States relating to
196 controlled substances;

197 (19) "Hospital", a place devoted primarily to the maintenance and
198 operation of facilities for the diagnosis, treatment or care, for not less than
199 twenty-four hours in any week, of three or more nonrelated individuals suffering
200 from illness, disease, injury, deformity or other abnormal physical conditions; or
201 a place devoted primarily to provide, for not less than twenty-four consecutive
202 hours in any week, medical or nursing care for three or more nonrelated
203 individuals. The term "hospital" does not include convalescent, nursing, shelter
204 or boarding homes as defined in chapter 198;

205 (20) "Immediate precursor", a substance which:

206 (a) The state department of health and senior services has found to be and
207 by rule designates as being the principal compound commonly used or produced
208 primarily for use in the manufacture of a controlled substance;

209 (b) Is an immediate chemical intermediary used or likely to be used in the
210 manufacture of a controlled substance; and

211 (c) The control of which is necessary to prevent, curtail or limit the
212 manufacture of the controlled substance;

213 (21) "Imitation controlled substance", a substance that is not a controlled
214 substance, which by dosage unit appearance (including color, shape, size and
215 markings), or by representations made, would lead a reasonable person to believe
216 that the substance is a controlled substance. In determining whether the
217 substance is an imitation controlled substance the court or authority concerned
218 should consider, in addition to all other logically relevant factors, the following:

219 (a) Whether the substance was approved by the federal Food and Drug
220 Administration for over-the-counter (nonprescription or nonlegend) sales and was
221 sold in the federal Food and Drug Administration approved package, with the
222 federal Food and Drug Administration approved labeling information;

223 (b) Statements made by an owner or by anyone else in control of the
224 substance concerning the nature of the substance, or its use or effect;

225 (c) Whether the substance is packaged in a manner normally used for
226 illicit controlled substances;

227 (d) Prior convictions, if any, of an owner, or anyone in control of the
228 object, under state or federal law related to controlled substances or fraud;

229 (e) The proximity of the substances to controlled substances;

230 (f) Whether the consideration tendered in exchange for the noncontrolled
231 substance substantially exceeds the reasonable value of the substance considering
232 the actual chemical composition of the substance and, where applicable, the price
233 at which over-the-counter substances of like chemical composition sell. An
234 imitation controlled substance does not include a placebo or registered
235 investigational drug either of which was manufactured, distributed, possessed or
236 delivered in the ordinary course of professional practice or research;

237 (22) "Laboratory", a laboratory approved by the department of health and
238 senior services as proper to be entrusted with the custody of controlled substances
239 but does not include a pharmacist who compounds controlled substances to be
240 sold or dispensed on prescriptions;

241 (23) "Manufacture", the production, preparation, propagation,
242 compounding or processing of drug paraphernalia or of a controlled substance, or
243 an imitation controlled substance, either directly or by extraction from substances
244 of natural origin, or independently by means of chemical synthesis, or by a

245 combination of extraction and chemical synthesis, and includes any packaging or
246 repackaging of the substance or labeling or relabeling of its container. This term
247 does not include the preparation or compounding of a controlled substance or an
248 imitation controlled substance or the preparation, compounding, packaging or
249 labeling of a narcotic or dangerous drug:

250 (a) By a practitioner as an incident to his or her administering or
251 dispensing of a controlled substance or an imitation controlled substance in the
252 course of his or her professional practice, or

253 (b) By a practitioner or his or her authorized agent under his or her
254 supervision, for the purpose of, or as an incident to, research, teaching or
255 chemical analysis and not for sale;

256 (24) "Marijuana", all parts of the plant genus *Cannabis* in any species or
257 form thereof, including, but not limited to *Cannabis Sativa L.*, *Cannabis Indica*,
258 *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether
259 growing or not, the seeds thereof, the resin extracted from any part of the plant;
260 and every compound, manufacture, salt, derivative, mixture, or preparation of the
261 plant, its seeds or resin. It does not include the mature stalks of the plant, fiber
262 produced from the stalks, oil or cake made from the seeds of the plant, any other
263 compound, manufacture, salt, derivative, mixture or preparation of the mature
264 stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized
265 seed of the plant which is incapable of germination;

266 (25) "Methamphetamine precursor drug", any drug containing ephedrine,
267 pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or
268 salts of optical isomers;

269 (26) "Narcotic drug", any of the following, whether produced directly or
270 indirectly by extraction from substances of vegetable origin, or independently by
271 means of chemical synthesis, or by a combination of extraction and chemical
272 analysis:

273 (a) Opium, opiate, and any derivative, of opium or opiate, including their
274 isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever
275 the existence of the isomers, esters, ethers, and salts is possible within the
276 specific chemical designation. The term does not include the isoquinoline
277 alkaloids of opium;

278 (b) Coca leaves, but not including extracts of coca leaves from which
279 cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

280 (c) Cocaine or any salt, isomer, or salt of isomer thereof;

281 (d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

282 (e) Any compound, mixture, or preparation containing any quantity of any
283 substance referred to in paragraphs (a) to (d) of this subdivision;

284 (27) "Official written order", an order written on a form provided for that
285 purpose by the United States Commissioner of Narcotics, under any laws of the
286 United States making provision therefor, if such order forms are authorized and
287 required by federal law, and if no such order form is provided, then on an official
288 form provided for that purpose by the department of health and senior services;

289 (28) "Opiate", any substance having an addiction-forming or
290 addiction-sustaining liability similar to morphine or being capable of conversion
291 into a drug having addiction-forming or addiction-sustaining liability. The term
292 includes its racemic and levorotatory forms. It does not include, unless
293 specifically controlled under section 195.017, the dextrorotatory isomer of
294 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

295 (29) "Opium poppy", the plant of the species *Papaver somniferum* L.,
296 except its seeds;

297 (30) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144
298 of a drug other than a controlled substance;

299 (31) "Person", an individual, corporation, government or governmental
300 subdivision or agency, business trust, estate, trust, partnership, joint venture,
301 association, or any other legal or commercial entity;

302 (32) "Pharmacist", a licensed pharmacist as defined by the laws of this
303 state, and where the context so requires, the owner of a store or other place of
304 business where controlled substances are compounded or dispensed by a licensed
305 pharmacist; but nothing in this chapter shall be construed as conferring on a
306 person who is not registered nor licensed as a pharmacist any authority, right or
307 privilege that is not granted to him by the pharmacy laws of this state;

308 (33) "Poppy straw", all parts, except the seeds, of the opium poppy, after
309 mowing;

310 (34) "Possessed" or "possessing a controlled substance", a person, with the
311 knowledge of the presence and nature of a substance, has actual or constructive
312 possession of the substance. A person has actual possession if he has the
313 substance on his or her person or within easy reach and convenient control. A
314 person who, although not in actual possession, has the power and the intention
315 at a given time to exercise dominion or control over the substance either directly
316 or through another person or persons is in constructive possession of

317 it. Possession may also be sole or joint. If one person alone has possession of a
318 substance possession is sole. If two or more persons share possession of a
319 substance, possession is joint;

320 (35) "Practitioner", a physician, dentist, optometrist, podiatrist,
321 veterinarian, scientific investigator, pharmacy, hospital or other person licensed,
322 registered or otherwise permitted by this state to distribute, dispense, conduct
323 research with respect to or administer or to use in teaching or chemical analysis,
324 a controlled substance in the course of professional practice or research in this
325 state, or a pharmacy, hospital or other institution licensed, registered, or
326 otherwise permitted to distribute, dispense, conduct research with respect to or
327 administer a controlled substance in the course of professional practice or
328 research;

329 (36) "Production", includes the manufacture, planting, cultivation,
330 growing, or harvesting of drug paraphernalia or of a controlled substance or an
331 imitation controlled substance;

332 (37) "Registry number", the number assigned to each person registered
333 under the federal controlled substances laws;

334 (38) "Sale", includes barter, exchange, or gift, or offer therefor, and each
335 such transaction made by any person, whether as principal, proprietor, agent,
336 servant or employee;

337 (39) "State" when applied to a part of the United States, includes any
338 state, district, commonwealth, territory, insular possession thereof, and any area
339 subject to the legal authority of the United States of America;

340 (40) "Synthetic cannabinoid", includes unless specifically excepted or
341 unless listed in another schedule, any natural or synthetic material, compound,
342 mixture, or preparation that contains any quantity of a substance that is a
343 cannabinoid receptor agonist, including but not limited to any substance listed
344 in paragraph (ll) of subdivision (4) of subsection 2 of section 195.017 and any
345 analogues; homologues; isomers, whether optical, positional, or geometric; esters;
346 ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of
347 the isomers, esters, ethers, or salts is possible within the specific chemical
348 designation, however, it shall not include any approved pharmaceutical
349 authorized by the United States Food and Drug Administration;

350 (41) "Ultimate user", a person who lawfully possesses a controlled
351 substance or an imitation controlled substance for his or her own use or for the
352 use of a member of his or her household or immediate family, regardless of

353 whether they live in the same household, or for administering to an animal owned
354 by him or by a member of his or her household. For purposes of this section, the
355 phrase "immediate family" means a husband, wife, parent, child, sibling,
356 stepparent, stepchild, stepbrother, stepsister, grandparent, or grandchild;

357 (42) "Wholesaler", a person who supplies drug paraphernalia or controlled
358 substances or imitation controlled substances that he himself has not produced
359 or prepared, on official written orders, but not on prescriptions.

195.010. The following words and phrases as used in sections 195.005 to
2 195.425, unless the context otherwise requires, mean:

3 (1) "Addict", a person who habitually uses one or more controlled
4 substances to such an extent as to create a tolerance for such drugs, and who does
5 not have a medical need for such drugs, or who is so far addicted to the use of
6 such drugs as to have lost the power of self-control with reference to his
7 addiction;

8 (2) "Administer", to apply a controlled substance, whether by injection,
9 inhalation, ingestion, or any other means, directly to the body of a patient or
10 research subject by:

11 (a) A practitioner (or, in his presence, by his authorized agent); or

12 (b) The patient or research subject at the direction and in the presence of
13 the practitioner;

14 (3) "Agent", an authorized person who acts on behalf of or at the direction
15 of a manufacturer, distributor, or dispenser. The term does not include a common
16 or contract carrier, public warehouseman, or employee of the carrier or
17 warehouseman while acting in the usual and lawful course of the carrier's or
18 warehouseman's business;

19 (4) "Attorney for the state", any prosecuting attorney, circuit attorney, or
20 attorney general authorized to investigate, commence and prosecute an action
21 under sections 195.005 to 195.425;

22 (5) "Controlled substance", a drug, substance, or immediate precursor in
23 Schedules I through V listed in sections 195.005 to 195.425;

24 (6) "Controlled substance analogue", a substance the chemical structure
25 of which is substantially similar to the chemical structure of a controlled
26 substance in Schedule I or II and:

27 (a) Which has a stimulant, depressant, or hallucinogenic effect on the
28 central nervous system substantially similar to the stimulant, depressant, or
29 hallucinogenic effect on the central nervous system of a controlled substance

30 included in Schedule I or II; or

31 (b) With respect to a particular individual, which that individual
32 represents or intends to have a stimulant, depressant, or hallucinogenic effect on
33 the central nervous system substantially similar to the stimulant, depressant, or
34 hallucinogenic effect on the central nervous system of a controlled substance
35 included in Schedule I or II. The term does not include a controlled substance;
36 any substance for which there is an approved new drug application; any
37 substance for which an exemption is in effect for investigational use, for a
38 particular person, under Section 505 of the federal Food, Drug and Cosmetic Act
39 (21 U.S.C. 355) to the extent conduct with respect to the substance is pursuant
40 to the exemption; or any substance to the extent not intended for human
41 consumption before such an exemption takes effect with respect to the substance;

42 (7) "Counterfeit substance", a controlled substance which, or the container
43 or labeling of which, without authorization, bears the trademark, trade name, or
44 other identifying mark, imprint, number or device, or any likeness thereof, of a
45 manufacturer, distributor, or dispenser other than the person who in fact
46 manufactured, distributed, or dispensed the substance;

47 (8) "Deliver" or "delivery", the actual, constructive, or attempted transfer
48 from one person to another of drug paraphernalia or of a controlled substance, or
49 an imitation controlled substance, whether or not there is an agency relationship,
50 and includes a sale;

51 (9) "Dentist", a person authorized by law to practice dentistry in this
52 state;

53 (10) "Depressant or stimulant substance":

54 (a) A drug containing any quantity of barbituric acid or any of the salts
55 of barbituric acid or any derivative of barbituric acid which has been designated
56 by the United States Secretary of Health and Human Services as habit forming
57 under 21 U.S.C. 352(d);

58 (b) A drug containing any quantity of:

59 a. Amphetamine or any of its isomers;

60 b. Any salt of amphetamine or any salt of an isomer of amphetamine; or

61 c. Any substance the United States Attorney General, after investigation,
62 has found to be, and by regulation designated as, habit forming because of its
63 stimulant effect on the central nervous system;

64 (c) Lysergic acid diethylamide; or

65 (d) Any drug containing any quantity of a substance that the United

66 States Attorney General, after investigation, has found to have, and by regulation
67 designated as having, a potential for abuse because of its depressant or stimulant
68 effect on the central nervous system or its hallucinogenic effect;

69 (11) "Dispense", to deliver a narcotic or controlled dangerous drug to an
70 ultimate user or research subject by or pursuant to the lawful order of a
71 practitioner including the prescribing, administering, packaging, labeling, or
72 compounding necessary to prepare the substance for such delivery. "Dispenser"
73 means a practitioner who dispenses;

74 (12) "Distribute", to deliver other than by administering or dispensing a
75 controlled substance;

76 (13) "Distributor", a person who distributes;

77 (14) "Drug":

78 (a) Substances recognized as drugs in the official United States
79 Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or
80 Official National Formulary, or any supplement to any of them;

81 (b) Substances intended for use in the diagnosis, cure, mitigation,
82 treatment or prevention of disease in humans or animals;

83 (c) Substances, other than food, intended to affect the structure or any
84 function of the body of humans or animals; and

85 (d) Substances intended for use as a component of any article specified in
86 this subdivision. It does not include devices or their components, parts or
87 accessories;

88 (15) "Drug-dependent person", a person who is using a controlled
89 substance and who is in a state of psychic or physical dependence, or both, arising
90 from the use of such substance on a continuous basis. Drug dependence is
91 characterized by behavioral and other responses which include a strong
92 compulsion to take the substance on a continuous basis in order to experience its
93 psychic effects or to avoid the discomfort caused by its absence;

94 (16) "Drug enforcement agency", the Drug Enforcement Administration in
95 the United States Department of Justice, or its successor agency;

96 (17) "Drug paraphernalia", all equipment, products, substances and
97 materials of any kind which are used, intended for use, or designed for use, in
98 planting, propagating, cultivating, growing, harvesting, manufacturing,
99 compounding, converting, producing, processing, preparing, storing, containing,
100 concealing, injecting, ingesting, inhaling, or otherwise introducing into the human
101 body a controlled substance or an imitation controlled substance in violation of

102 sections 195.005 to 195.425. It includes, but is not limited to:

103 (a) Kits used, intended for use, or designed for use in planting,
104 propagating, cultivating, growing or harvesting of any species of plant which is
105 a controlled substance or from which a controlled substance can be derived;

106 (b) Kits used, intended for use, or designed for use in manufacturing,
107 compounding, converting, producing, processing, or preparing controlled
108 substances or imitation controlled substances;

109 (c) Isomerization devices used, intended for use, or designed for use in
110 increasing the potency of any species of plant which is a controlled substance or
111 an imitation controlled substance;

112 (d) Testing equipment used, intended for use, or designed for use in
113 identifying, or in analyzing the strength, effectiveness or purity of controlled
114 substances or imitation controlled substances;

115 (e) Scales and balances used, intended for use, or designed for use in
116 weighing or measuring controlled substances or imitation controlled substances;

117 (f) Dilutents and adulterants, such as quinine hydrochloride, mannitol,
118 mannite, dextrose and lactose, used, intended for use, or designed for use in
119 cutting controlled substances or imitation controlled substances;

120 (g) [Separation gins and sifters used, intended for use, or designed for use
121 in removing twigs and seeds from, or in otherwise cleaning or refining,
122 marijuana;

123 (h) Blenders, bowls, containers, spoons and mixing devices used, intended
124 for use, or designed for use in compounding controlled substances or imitation
125 controlled substances;

126 [(i)] (h) Capsules, balloons, envelopes and other containers used,
127 intended for use, or designed for use in packaging small quantities of controlled
128 substances or imitation controlled substances;

129 [(j)] (i) Containers and other objects used, intended for use, or designed
130 for use in storing or concealing controlled substances or imitation controlled
131 substances;

132 [(k)] (j) Hypodermic syringes, needles and other objects used, intended
133 for use, or designed for use in parenterally injecting controlled substances or
134 imitation controlled substances into the human body;

135 [(l)] (k) Objects used, intended for use, or designed for use in ingesting,
136 inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into
137 the human body, such as:

- 138 a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or
139 without screens, permanent screens, hashish heads, or punctured metal bowls;
140 b. Water pipes;
141 c. Carburetion tubes and devices;
142 d. Smoking and carburetion masks;
143 e. Roach clips meaning objects used to hold burning material[, such as a
144 marijuana cigarette,] that has become too small or too short to be held in the
145 hand;
146 f. Miniature cocaine spoons and cocaine vials;
147 g. Chamber pipes;
148 h. Carburetor pipes;
149 i. Electric pipes;
150 j. Air-driven pipes;
151 k. Chillums;
152 l. Bongs;
153 m. Ice pipes or chillers;
154 **[(m)] (I)** Substances used, intended for use, or designed for use in the
155 manufacture of a controlled substance;
156 In determining whether an object, product, substance or material is drug
157 paraphernalia, a court or other authority should consider, in addition to all other
158 logically relevant factors, the following:
159 a. Statements by an owner or by anyone in control of the object concerning
160 its use;
161 b. Prior convictions, if any, of an owner, or of anyone in control of the
162 object, under any state or federal law relating to any controlled substance or
163 imitation controlled substance;
164 c. The proximity of the object, in time and space, to a direct violation of
165 sections 195.005 to 195.425;
166 d. The proximity of the object to controlled substances or imitation
167 controlled substances;
168 e. The existence of any residue of controlled substances or imitation
169 controlled substances on the object;
170 f. Direct or circumstantial evidence of the intent of an owner, or of anyone
171 in control of the object, to deliver it to persons who he knows, or should
172 reasonably know, intend to use the object to facilitate a violation of sections
173 195.005 to 195.425; the innocence of an owner, or of anyone in control of the

174 object, as to direct violation of sections 195.005 to 195.425 shall not prevent a
175 finding that the object is intended for use, or designed for use as drug
176 paraphernalia;

177 g. Instructions, oral or written, provided with the object concerning its
178 use;

179 h. Descriptive materials accompanying the object which explain or depict
180 its use;

181 i. National or local advertising concerning its use;

182 j. The manner in which the object is displayed for sale;

183 k. Whether the owner, or anyone in control of the object, is a legitimate
184 supplier of like or related items to the community, such as a licensed distributor
185 or dealer of tobacco products;

186 l. Direct or circumstantial evidence of the ratio of sales of the object to the
187 total sales of the business enterprise;

188 m. The existence and scope of legitimate uses for the object in the
189 community;

190 n. Expert testimony concerning its use;

191 o. The quantity, form or packaging of the product, substance or material
192 in relation to the quantity, form or packaging associated with any legitimate use
193 for the product, substance or material;

194 (18) "Federal narcotic laws", the laws of the United States relating to
195 controlled substances;

196 (19) "Hospital", a place devoted primarily to the maintenance and
197 operation of facilities for the diagnosis, treatment or care, for not less than
198 twenty-four hours in any week, of three or more nonrelated individuals suffering
199 from illness, disease, injury, deformity or other abnormal physical conditions; or
200 a place devoted primarily to provide, for not less than twenty-four consecutive
201 hours in any week, medical or nursing care for three or more nonrelated
202 individuals. The term "hospital" does not include convalescent, nursing, shelter
203 or boarding homes as defined in chapter 198;

204 (20) "Immediate precursor", a substance which:

205 (a) The state department of health and senior services has found to be and
206 by rule designates as being the principal compound commonly used or produced
207 primarily for use in the manufacture of a controlled substance;

208 (b) Is an immediate chemical intermediary used or likely to be used in the
209 manufacture of a controlled substance; and

210 (c) The control of which is necessary to prevent, curtail or limit the
211 manufacture of the controlled substance;

212 (21) "Imitation controlled substance", a substance that is not a controlled
213 substance, which by dosage unit appearance (including color, shape, size and
214 markings), or by representations made, would lead a reasonable person to believe
215 that the substance is a controlled substance. In determining whether the
216 substance is an imitation controlled substance the court or authority concerned
217 should consider, in addition to all other logically relevant factors, the following:

218 (a) Whether the substance was approved by the federal Food and Drug
219 Administration for over-the-counter (nonprescription or nonlegend) sales and was
220 sold in the federal Food and Drug Administration approved package, with the
221 federal Food and Drug Administration approved labeling information;

222 (b) Statements made by an owner or by anyone else in control of the
223 substance concerning the nature of the substance, or its use or effect;

224 (c) Whether the substance is packaged in a manner normally used for
225 illicit controlled substances;

226 (d) Prior convictions, if any, of an owner, or anyone in control of the
227 object, under state or federal law related to controlled substances or fraud;

228 (e) The proximity of the substances to controlled substances;

229 (f) Whether the consideration tendered in exchange for the noncontrolled
230 substance substantially exceeds the reasonable value of the substance considering
231 the actual chemical composition of the substance and, where applicable, the price
232 at which over-the-counter substances of like chemical composition sell. An
233 imitation controlled substance does not include a placebo or registered
234 investigational drug either of which was manufactured, distributed, possessed or
235 delivered in the ordinary course of professional practice or research;

236 (22) "Laboratory", a laboratory approved by the department of health and
237 senior services as proper to be entrusted with the custody of controlled substances
238 but does not include a pharmacist who compounds controlled substances to be
239 sold or dispensed on prescriptions;

240 (23) "Manufacture", the production, preparation, propagation,
241 compounding or processing of drug paraphernalia or of a controlled substance, or
242 an imitation controlled substance, either directly or by extraction from substances
243 of natural origin, or independently by means of chemical synthesis, or by a
244 combination of extraction and chemical synthesis, and includes any packaging or
245 repackaging of the substance or labeling or relabeling of its container. This term

246 does not include the preparation or compounding of a controlled substance or an
247 imitation controlled substance or the preparation, compounding, packaging or
248 labeling of a narcotic or dangerous drug:

249 (a) By a practitioner as an incident to his administering or dispensing of
250 a controlled substance or an imitation controlled substance in the course of his
251 professional practice, or

252 (b) By a practitioner or his authorized agent under his supervision, for the
253 purpose of, or as an incident to, research, teaching or chemical analysis and not
254 for sale;

255 (24) "Marijuana", all parts of the plant genus Cannabis in any species or
256 form thereof, including, but not limited to Cannabis Sativa L., Cannabis Indica,
257 Cannabis Americana, Cannabis Ruderalis, and Cannabis Gigantea, whether
258 growing or not, the seeds thereof, the resin extracted from any part of the plant;
259 and every compound, manufacture, salt, derivative, mixture, or preparation of the
260 plant, its seeds or resin. It does not include the mature stalks of the plant, fiber
261 produced from the stalks, oil or cake made from the seeds of the plant, any other
262 compound, manufacture, salt, derivative, mixture or preparation of the mature
263 stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized
264 seed of the plant which is incapable of germination;

265 (25) "Methamphetamine precursor drug", any drug containing ephedrine,
266 pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or
267 salts of optical isomers;

268 (26) "Narcotic drug", any of the following, whether produced directly or
269 indirectly by extraction from substances of vegetable origin, or independently by
270 means of chemical synthesis, or by a combination of extraction and chemical
271 analysis:

272 (a) Opium, opiate, and any derivative, of opium or opiate, including their
273 isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever
274 the existence of the isomers, esters, ethers, and salts is possible within the
275 specific chemical designation. The term does not include the isoquinoline
276 alkaloids of opium;

277 (b) Coca leaves, but not including extracts of coca leaves from which
278 cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

279 (c) Cocaine or any salt, isomer, or salt of isomer thereof;

280 (d) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

281 (e) Any compound, mixture, or preparation containing any quantity of any

282 substance referred to in paragraphs (a) to (d) of this subdivision;

283 (27) "Official written order", an order written on a form provided for that
284 purpose by the United States Commissioner of Narcotics, under any laws of the
285 United States making provision therefor, if such order forms are authorized and
286 required by federal law, and if no such order form is provided, then on an official
287 form provided for that purpose by the department of health and senior services;

288 (28) "Opiate", any substance having an addiction-forming or
289 addiction-sustaining liability similar to morphine or being capable of conversion
290 into a drug having addiction-forming or addiction-sustaining liability. The term
291 includes its racemic and levorotatory forms. It does not include, unless
292 specifically controlled under section 195.017, the dextrorotatory isomer of
293 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

294 (29) "Opium poppy", the plant of the species *Papaver somniferum* L.,
295 except its seeds;

296 (30) "Over-the-counter sale", a retail sale licensed pursuant to chapter 144
297 of a drug other than a controlled substance;

298 (31) "Person", an individual, corporation, government or governmental
299 subdivision or agency, business trust, estate, trust, partnership, joint venture,
300 association, or any other legal or commercial entity;

301 (32) "Pharmacist", a licensed pharmacist as defined by the laws of this
302 state, and where the context so requires, the owner of a store or other place of
303 business where controlled substances are compounded or dispensed by a licensed
304 pharmacist; but nothing in sections 195.005 to 195.425 shall be construed as
305 conferring on a person who is not registered nor licensed as a pharmacist any
306 authority, right or privilege that is not granted to him by the pharmacy laws of
307 this state;

308 (33) "Poppy straw", all parts, except the seeds, of the opium poppy, after
309 mowing;

310 (34) "Possessed" or "possessing a controlled substance", a person, with the
311 knowledge of the presence and nature of a substance, has actual or constructive
312 possession of the substance. A person has actual possession if he has the
313 substance on his person or within easy reach and convenient control. A person
314 who, although not in actual possession, has the power and the intention at a
315 given time to exercise dominion or control over the substance either directly or
316 through another person or persons is in constructive possession of it. Possession
317 may also be sole or joint. If one person alone has possession of a substance

318 possession is sole. If two or more persons share possession of a substance,
319 possession is joint;

320 (35) "Practitioner", a physician, dentist, optometrist, podiatrist,
321 veterinarian, scientific investigator, pharmacy, hospital or other person licensed,
322 registered or otherwise permitted by this state to distribute, dispense, conduct
323 research with respect to or administer or to use in teaching or chemical analysis,
324 a controlled substance in the course of professional practice or research in this
325 state, or a pharmacy, hospital or other institution licensed, registered, or
326 otherwise permitted to distribute, dispense, conduct research with respect to or
327 administer a controlled substance in the course of professional practice or
328 research;

329 (36) "Production", includes the manufacture, planting, cultivation,
330 growing, or harvesting of drug paraphernalia or of a controlled substance or an
331 imitation controlled substance;

332 (37) "Registry number", the number assigned to each person registered
333 under the federal controlled substances laws;

334 (38) "Sale", includes barter, exchange, or gift, or offer therefor, and each
335 such transaction made by any person, whether as principal, proprietor, agent,
336 servant or employee;

337 (39) "State" when applied to a part of the United States, includes any
338 state, district, commonwealth, territory, insular possession thereof, and any area
339 subject to the legal authority of the United States of America;

340 (40) "Synthetic cannabinoid", includes unless specifically excepted or
341 unless listed in another schedule, any natural or synthetic material, compound,
342 mixture, or preparation that contains any quantity of a substance that is a
343 cannabinoid receptor agonist, including but not limited to any substance listed
344 in paragraph (ll) of subdivision (4) of subsection 2 of section 195.017 and any
345 analogues, homologues; isomers, whether optical, positional, or geometric; esters;
346 ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of
347 the isomers, esters, ethers, or salts is possible within the specific chemical
348 designation, however, it shall not include any approved pharmaceutical
349 authorized by the United States Food and Drug Administration;

350 (41) "Ultimate user", a person who lawfully possesses a controlled
351 substance or an imitation controlled substance for his own use or for the use of
352 a member of his household or for administering to an animal owned by him or by
353 a member of his household;

354 (42) "Wholesaler", a person who supplies drug paraphernalia or controlled
355 substances or imitation controlled substances that he himself has not produced
356 or prepared, on official written orders, but not on prescriptions.

**195.1000. As used in sections 195.1000 to 195.1280, the following
2 terms mean:**

3 (1) "Division", the division of alcohol and tobacco control within
4 the department of public safety;

5 (2) "Good cause", for purposes of refusing or denying a license
6 renewal, reinstatement, or initial license issuance:

7 (a) The licensee applicant has violated, does not meet, or has
8 failed to comply with any of the terms, conditions, or provisions of
9 sections 195.1000 to 195.1280, any rules promulgated thereunder, or any
10 supplemental local law, rules, or regulations;

11 (b) The licensee or applicant has failed to comply with any
12 special terms or conditions that were placed on its license under an
13 order of the state or local licensing authority;

14 (c) The licensed premises have been operated in a manner that
15 adversely affects the public health or welfare or the safety of the
16 immediate neighborhood in which the establishment is located;

17 (3) "Immature plant", a nonflowering marijuana plant that is no
18 taller than eight inches and no wider than eight inches, is produced
19 from a cutting, clipping, or seedling, and is in a cultivating container;

20 (4) "License", to grant a license under sections 195.1000 to
21 195.1280;

22 (5) "Licensed premises", the premises specified in an application
23 for a license under sections 195.1000 to 195.1280, which are owned or
24 in possession of the licensee and within which the licensee is
25 authorized to cultivate, manufacture, distribute, sell, or test retail
26 marijuana and retail marijuana products in accordance with sections
27 195.1000 to 195.1280;

28 (6) "Licensee", a person licensed under sections 195.1000 to
29 195.1280;

30 (7) "Limited access area", a building, room, or other contiguous
31 area upon the licensed premises where retail marijuana is grown,
32 cultivated, stored, weighed, displayed, packaged, sold, or possessed for
33 sale, under control of the licensee, with limited access to only those
34 persons licensed by the division. All areas of ingress or egress to

35 limited access areas shall be clearly identified as such by a sign as
36 designated by the division;

37 (8) "Local licensing authority", an authority designated by
38 municipal or county charter or ordinance;

39 (9) "Location", a particular parcel of land that may be identified
40 by an address or other descriptive means;

41 (10) "Marijuana accessories", any equipment, products, or
42 materials of any kind which are used, intended for use, or designed for
43 use in planting, propagating, cultivating, growing, harvesting,
44 composting, manufacturing, compounding, converting, producing,
45 processing, preparing, testing, analyzing, packaging, repackaging,
46 storing, vaporizing, or containing marijuana, or for ingesting, inhaling,
47 or otherwise introducing marijuana into the human body;

48 (11) "Mobile distribution center", any vehicle other than a
49 common passenger light-duty vehicle with a short wheel base used to
50 carry a quantity of marijuana greater than one ounce;

51 (12) "Opaque", the packaging does not allow the product to be
52 seen without opening the packaging material;

53 (13) "Owner", any person having a beneficial interest, as defined
54 by the state licensing authority, in a retail marijuana establishment;

55 (14) "Premises", a distinctly identified, as required by the state
56 licensing authority, and definite location, which may include a
57 building, a part of a building, a room, or any other definite contiguous
58 area;

59 (15) "Resealable", the package continues to function with
60 effectiveness specifications, which shall be established by the state
61 licensing authority similar to the federal "Poison Prevention Packaging
62 Act of 1970", 15 U.S.C. sec. 1471 et seq., for the number of openings and
63 closings customary for its size and contents, which shall be determined
64 by the state licensing authority;

65 (16) "Retail marijuana", all parts of the plant of the genus
66 cannabis whether growing or not, the seeds thereof, the resin extracted
67 from any part of the plant, and every compound, manufacture, salt,
68 derivative, mixture, or preparation of the plant, its seeds, or its resin,
69 including marijuana concentrate, that is cultivated, manufactured,
70 distributed, or sold by a licensed retail marijuana
71 establishment. "Retail marijuana" does not include industrial hemp, nor

72 does it include fiber produced from the stalks, oil, or cake made from
73 the seeds of the plant, sterilized seed of the plant which is incapable of
74 germination, or the weight of any other ingredient combined with
75 marijuana to prepare topical or oral administrations, food, drink, or
76 other product;

77 (17) "Retail marijuana cultivation facility", an entity licensed to
78 cultivate, prepare, and package marijuana and sell marijuana to retail
79 marijuana stores, to marijuana product manufacturing facilities, and
80 to other marijuana cultivation facilities, but not to consumers;

81 (18) "Retail marijuana establishment", a retail marijuana store,
82 a retail marijuana cultivation facility, a retail marijuana products
83 manufacturer, or a retail marijuana testing facility;

84 (19) "Retail marijuana products", concentrated marijuana
85 products, and marijuana products that are comprised of marijuana and
86 other ingredients and are intended for use or consumption, such as,
87 edible products, ointments, and tinctures, that are produced at a retail
88 marijuana products manufacturer;

89 (20) "Retail marijuana products manufacturer", an entity licensed
90 to purchase marijuana; manufacture, prepare, and package marijuana
91 products; and sell marijuana and marijuana products to other
92 marijuana product manufacturing facilities and to retail marijuana
93 stores, but not to consumers;

94 (21) "Retail marijuana store", an entity licensed to purchase
95 retail marijuana from retail marijuana cultivation facilities and retail
96 marijuana and retail marijuana products from retail marijuana
97 products manufacturers and to sell retail marijuana and retail
98 marijuana products to consumers;

99 (22) "Retail marijuana testing facility", a public or private
100 laboratory licensed and certified, or approved by the division, to
101 conduct research and analyze retail marijuana for contaminants and
102 potency;

103 (23) "Sale" or "sell", includes to exchange, barter, or traffic in, to
104 solicit or receive and order except through a licensee licensed under
105 sections 195.1000 to 195.1280, to deliver for value in any way other than
106 gratuitously, to peddle or possess with intent to sell, or to traffic in for
107 any consideration promised or obtained directly or indirectly;

108 (24) "State licensing authority", the division of alcohol and

109 tobacco control which is responsible for regulating and controlling the
110 licensing of the cultivation, manufacture, distribution, and sale of retail
111 marijuana in this state.

195.1010. 1. Sections 195.1000 to 195.1280 set forth the exclusive
2 means by which cultivation, manufacture, sale, distribution, dispensing,
3 and testing of retail marijuana and retail marijuana products may
4 occur in the state, and it is unlawful to cultivate, manufacture,
5 distribute, or sell retail marijuana and retail marijuana products,
6 except in compliance with the terms, conditions, limitations, and
7 restrictions under sections 195.1000 to 195.1280.

8 2. Nothing in sections 195.1000 to 195.1280 is intended to require
9 an employer to permit or accommodate the use, consumption,
10 possession, transfer, display, transportation, sale, or cultivating of
11 marijuana in the workplace or to affect the ability of employers to have
12 policies restricting the use of marijuana by employees.

13 3. Nothing in sections 195.1000 to 195.1280 prohibits a person,
14 employer, school, hospital, detention facility, corporation, or any other
15 entity who occupies, owns, or controls a property from prohibiting or
16 otherwise regulating the possession, consumption, use, display,
17 transfer, distribution, sale, transportation, or cultivating of marijuana
18 on or in that property.

19 4. Local governments may enact reasonable zoning rules that
20 limit the use of land for operation of retail marijuana establishments
21 to specified areas and that regulate the time, place, and manner of such
22 facilities. The operation of sections 195.1000 to 195.1280 shall be
23 statewide unless a municipality or county, by either a majority of the
24 registered voters voting at a regular election or special election called
25 in accordance with state law vote to prohibit the operation of retail
26 marijuana establishments in the municipality or county.

27 5. On or before April first of each year, the state licensing
28 authority shall submit a report to the senate appropriations committee
29 and the house of representatives select committee on budget, or any
30 successor committees, on:

31 (1) The progress that the state licensing authority is making in
32 processing licenses;

33 (2) An overview of the retail marijuana and retail marijuana
34 products markets, including but not limited to actual and anticipated

35 market demand and market supply;

36 (3) Detailing the amount of revenue generated by retail
37 marijuana, including applicable excise taxes, sales taxes, application
38 and license fees, and any other fees, and detailing the expenses
39 incurred by the state licensing authority, broken down into categories
40 as determined by the authority;

41 (4) The number of persons who have filed a notice of intent to
42 apply for licensure; and

43 (5) The enforcement measures taken against persons licensed
44 under sections 195.1000 to 195.1280 for violation of regulations
45 promulgated under sections 195.1000 to 195.1280.

195.1020. 1. The state licensing authority shall develop and
2 maintain a seed-to-sale tracking system that tracks retail marijuana
3 from either seed or immature plant stage until the marijuana or retail
4 marijuana product is sold to a customer at a retail marijuana store to
5 ensure that no marijuana grown or processed by a retail marijuana
6 establishment is sold or otherwise transferred except by a retail
7 marijuana store.

8 2. The state licensing authority shall:

9 (1) Grant or deny state licenses for the cultivation, manufacture,
10 distribution, sale, and testing of retail marijuana and retail marijuana
11 products as provided by law;

12 (2) Suspend, fine, restrict, or revoke such licenses upon a
13 violation of sections 195.1000 to 195.1280 or any rule promulgated under
14 sections 195.1000 to 195.1280;

15 (3) Impose any penalty authorized by sections 195.1000 to
16 195.1280 or any rule promulgated under sections 195.1000 to 195.1280;

17 (4) Promulgate, on or before July 1, 2017, rules for the proper
18 regulation and control of the cultivation, manufacture, distribution,
19 sale, and testing of retail marijuana and retail marijuana products and
20 for the enforcement of sections 195.1000 to 195.1280 and promulgate
21 amended rules and such special rulings and findings as necessary;

22 (5) Maintain the confidentiality of reports or other information
23 obtained from a licensee showing the sales volume or quantity of retail
24 marijuana or retail marijuana products sold, or revealing any customer
25 information, or any other records that are exempt from public
26 inspection under state law. Such reports or other information may be

27 used only for a purpose authorized by sections 195.1000 to 195.1280 or
28 for any other state or local law enforcement purpose. Any customer
29 information may be used only for a purpose authorized by sections
30 195.1000 to 195.1280;

31 (6) Develop such forms, licenses, identification cards, and
32 applications as are necessary or convenient in the discretion of the
33 state licensing authority for the administration of sections 195.1000 to
34 195.1280 or any of the rules promulgated under sections 195.1000 to
35 195.1280;

36 (7) Prepare and transmit annually a report accounting to the
37 governor for the efficient discharge of all responsibilities assigned by
38 law to the state licensing authority; and

39 (8) Upon denial of a state license, provide written notice of the
40 grounds for such denial of a state license to the applicant and to the
41 local authority and the right of the applicant to a hearing before the
42 administrative hearing commission.

43 3. Rules promulgated under this section shall include:

44 (1) Procedures consistent with sections 195.1000 to 195.1280 for
45 the issuance, renewal, suspension, and revocation of licenses to operate
46 retail marijuana establishments;

47 (2) Subject to the limitations contained in sections 195.1000 to
48 195.1280, a schedule of application, licensing, and renewal fees for
49 retail marijuana establishments;

50 (3) Qualifications for licensure under sections 195.1000 to
51 195.1280, including the requirement for a fingerprint-based criminal
52 history record check for all owners, officers, managers, contractors,
53 employees, and other support staff of entities licensed under sections
54 195.1000 to 195.1280;

55 (4) A marijuana and marijuana products independent testing and
56 certification program, within an implementation time frame established
57 by the state licensing authority, requiring licensees to test marijuana
58 to ensure at a minimum that products sold for human consumption do
59 not contain contaminants that are injurious to health and to ensure
60 correct labeling. Testing shall include analysis for residual solvents,
61 poisons, or toxins, harmful chemicals, dangerous molds or mildew, filth,
62 and harmful microbials such as E. Coli or salmonella and pesticides. In
63 the event that test results indicate the presence of quantities of any

64 substance determined to be injurious to health, such products shall be
65 immediately quarantined and immediate notification to the state
66 licensing authority shall be made. The adulterated product shall be
67 documented and properly destroyed. Testing shall also verify THC
68 potency representations for correct labeling;

69 (5) Acceptable variances for potency representations and
70 procedures to address potency misrepresentations; and

71 (6) Protocols and frequency of marijuana testing by licensees;

72 (7) Security requirements for any premises licensed under
73 sections 195.1000 to 195.1280, including, at a minimum, lighting,
74 physical security, video, and alarm requirements, and other minimum
75 procedures for internal control as deemed necessary by the state
76 licensing authority to properly administer and enforce the provisions
77 of sections 195.1000 to 195.1280, including reporting requirements for
78 changes, alterations, or modifications to the premises;

79 (8) Requirements to prevent the sale or diversion of retail
80 marijuana and retail marijuana products to persons under twenty-one
81 years of age;

82 (9) Labeling requirements for retail marijuana and retail
83 marijuana products sold by a retail marijuana establishment that are
84 at least as stringent as imposed by sections 195.1000 to 195.1280 and
85 include:

86 (a) The license number of the retail marijuana cultivation
87 license;

88 (b) The license number of the retail marijuana store;

89 (c) An identity statement and standardized graphic symbol;

90 (d) The batch number;

91 (e) A net weight statement;

92 (f) THC potency and the potency of such other cannabinoids or
93 other chemicals, including but not limited to CBD, as determined
94 relevant by the state licensing authority;

95 (g) A list of the nonorganic pesticides, fungicides, herbicides, and
96 solvents used during cultivation or production;

97 (h) A statement to the effect of: "This product contains
98 marijuana and was cultivated or produced without regulatory oversight
99 for health, safety, or efficacy, and there may be health risks associated
100 with the consumption of the product.";

- 101 **(i) Warning labels;**
- 102 **(j) Solvents used in the extraction process;**
- 103 **(k) Amount of THC per serving and the number of servings per**
104 **package for marijuana products;**
- 105 **(l) A list of ingredients and possible allergens for retail**
106 **marijuana products;**
- 107 **(m) A recommended use by or expiration date for retail**
108 **marijuana products;**
- 109 **(n) A nutritional fact panel for edible marijuana products; and**
- 110 **(o) A universal symbol indicating the package contains**
111 **marijuana;**
- 112 **(10) Health and safety regulations and standards for the**
113 **manufacture of retail marijuana products and the cultivation of retail**
114 **marijuana;**
- 115 **(11) Limitations on the display of retail marijuana and retail**
116 **marijuana products;**
- 117 **(12) Regulation of the storage of, warehouses for, and**
118 **transportation of retail marijuana and retail marijuana products;**
- 119 **(13) Sanitary requirements for retail marijuana establishments,**
120 **including but not limited to sanitary requirements for the preparation**
121 **of retail marijuana products;**
- 122 **(14) Requirements for the records to be kept by licensees and the**
123 **required availability of the records;**
- 124 **(15) Requirements for the reporting and transmittal of monthly**
125 **sales tax payments by retail marijuana stores and any applicable excise**
126 **tax payments by retail marijuana cultivation facilities;**
- 127 **(16) Authorization for the department of revenue to have access**
128 **to licensing information to ensure tax payment and the effective**
129 **administration of sections 195.1000 to 195.1280;**
- 130 **(17) Provisions regarding the compliance with, enforcement of,**
131 **or violation of any provision of sections 195.1000 to 195.1280 or any rule**
132 **issued in accordance with sections 195.1000 to 195.1280, including**
133 **procedures and grounds for denying, suspending, fining, restricting, or**
134 **revoking a state license issued under sections 195.1000 to 195.1280;**
- 135 **(18) A schedule of penalties and procedures for issuing and**
136 **appealing citations for violation of statutes and rules and issuing**
137 **administrative citations;**

138 **(19) Limitations on the amount of retail marijuana flower in**
139 **various retail marijuana products including retail marijuana**
140 **concentrate, including a scientific study to determine the equivalency**
141 **of marijuana flower in retail marijuana products;**

142 **(20) Specifications of duties of officers and employees of the**
143 **state licensing authority;**

144 **(21) Instructions for cities, towns, villages, counties, and law**
145 **enforcement officers;**

146 **(22) Requirements for inspections, investigations, searches,**
147 **seizures, forfeitures, and such additional activities as may become**
148 **necessary from time to time;**

149 **(23) Prohibitions on misrepresentation and unfair practices;**

150 **(24) Requirements for individual identification cards for owners,**
151 **officers, managers, contractors, employees, and other support staff of**
152 **entities licensed under this chapter, including a fingerprint-based**
153 **criminal history record check as may be required by the state licensing**
154 **authority prior to issuing a card;**

155 **(25) Specifications for acceptable forms of picture identification**
156 **that a retail marijuana store may accept when verifying a sale,**
157 **including government-issued identification cards;**

158 **(26) State licensing procedures, including procedures for**
159 **renewals, reinstatements, initial licenses, and the payment of licensing**
160 **fees;**

161 **(27) Such other requirements or procedures as are necessary for**
162 **the fair, impartial, stringent, and comprehensive administration of**
163 **sections 195.1000 to 195.1280;**

164 **(28) Requirements for signage, marketing, and advertising,**
165 **including a prohibition on mass-market campaigns that have a high**
166 **likelihood of reaching persons under twenty-one years of age and other**
167 **such rules that may include:**

168 **(a) A prohibition on health or physical benefit claims in**
169 **advertising, merchandising, and packaging;**

170 **(b) A prohibition on unsolicited pop-up advertising on the**
171 **internet;**

172 **(c) A prohibition on banner ads on mass-market web sites;**

173 **(d) A prohibition on opt-in marketing that does not permit an**
174 **easy and permanent opt-out feature; and**

175 **(e) A prohibition on marketing directed towards location-based**
176 **devices, including cellular phones, unless the marketing is a mobile**
177 **device application installed on the device by the owner of the device**
178 **who is twenty-one years of age or older and includes a permanent and**
179 **easy opt-out feature;**

180 **(29) Requirements that magazines whose primary focus is**
181 **marijuana or marijuana businesses are only sold in retail marijuana**
182 **stores or behind the counter in establishments where persons under**
183 **twenty-one years of age are present;**

184 **(30) Prohibitions on the sale of retail marijuana and retail**
185 **marijuana products unless:**

186 **(a) The product is packaged by the retail marijuana store or the**
187 **retail marijuana products manufacturer in packaging meeting**
188 **requirements established by the state licensing authority similar to the**
189 **federal "Poison Prevention Packaging Act of 1970", 15 U.S.C. sec. 1471**
190 **et seq.; or**

191 **(b) The product is placed in an opaque and resealable exit**
192 **package or container meeting requirements established by the state**
193 **licensing authority at the point of sale prior to exiting the store;**

194 **(31) Requirements for the safe and lawful transport of retail**
195 **marijuana and retail marijuana products between the licensed business**
196 **and testing laboratories;**

197 **(32) A standardized marijuana serving size amount for edible**
198 **retail marijuana products that does not contain more than ten**
199 **milligrams of active THC designed only to provide consumers with**
200 **information about the total number of servings of active THC in a**
201 **particular retail marijuana product, not as a limitation on the total**
202 **amount of THC in any particular item, labeling requirements regarding**
203 **servings for edible retail marijuana products, and limitations on the**
204 **total amount of active THC in a sealed internal package that is no more**
205 **than one hundred milligrams of active THC;**

206 **(33) Labeling guidelines concerning the total content of THC per**
207 **unit of weight;**

208 **(34) Prohibitions or regulations on additives in any retail**
209 **marijuana product, including those that are toxic, designed to make the**
210 **product more addictive, designed to make the product more appealing**
211 **to children, or misleading to consumers, but not including common**

212 **baking and cooking items;**

213 **(35) Permission for a local fire department to conduct an annual**
214 **fire inspection of a retail marijuana cultivation facility; and**

215 **(36) Requirements that edible retail marijuana products be**
216 **clearly identifiable, when practicable, with a standard symbol**
217 **indicating that it contains marijuana and is not for consumption by**
218 **children. The symbols promulgated by rule of the state licensing**
219 **authority shall not appropriate signs or symbols associated with**
220 **another Missouri business or industry.**

221 **4. By August 28, 2017, the state licensing authority shall convene**
222 **a stakeholders group, including representatives of the department of**
223 **health and senior services, retail marijuana store licensees, retail**
224 **marijuana products manufacturers licensees, child abuse prevention**
225 **experts, and advocates for children's health, to make recommendations**
226 **for rules on how edible retail marijuana products can be clearly**
227 **identifiable, when practicable, to indicate that it contains marijuana,**
228 **is not for consumption by children, and is safe for consumers. Prior to**
229 **February 1, 2018, the state licensing authority shall report its findings**
230 **to the general assembly.**

231 **5. Nothing in this section shall be construed as delegating to the**
232 **state licensing authority the power to fix prices for retail marijuana.**

233 **6. Nothing in this section shall be construed to limit a law**
234 **enforcement agency's ability to investigate unlawful activity in relation**
235 **to a retail marijuana establishment.**

236 **7. The state licensing authority shall create a statewide licensure**
237 **class system for retail marijuana cultivation facilities. The**
238 **classifications may be based upon square footage of the facility, lights,**
239 **lumens, or wattage, lit canopy, the number of cultivating plants, a**
240 **combination of the foregoing, or other reasonable metrics. The state**
241 **licensing authority shall create a fee structure for the license class**
242 **system.**

243 **8. The state licensing authority may establish limitations upon**
244 **retail marijuana production through one or more of the following**
245 **methods:**

246 **(1) Placing or modifying a limit on the number of licenses that**
247 **it issues, by class or overall, but in placing or modifying the limits, the**
248 **authority shall consider the reasonable availability of new licenses**

249 after a limit is established or modified;

250 (2) Placing or modifying a limit on the amount of production
251 permitted by a retail marijuana cultivation license or class of licenses
252 based upon some reasonable metric or set of metrics, previous months'
253 sales, pending sales, or other reasonable metrics as determined by the
254 state licensing authority; and

255 (3) Placing or modifying a limit on the total amount of
256 production by retail marijuana cultivation licensees in the state,
257 collectively, based upon some reasonable metric or set of metrics as
258 determined by the state licensing authority.

259 9. Notwithstanding any provision of this chapter to the contrary,
260 in considering any limitations on retail marijuana production, the state
261 licensing authority, in addition to any other relevant considerations,
262 shall:

263 (1) Consider the total current and anticipated demand for retail
264 marijuana and retail marijuana products in Missouri; and

265 (2) Attempt to minimize the market for unlawful marijuana.

195.1030. 1. A local licensing authority may issue a local license
2 to a retail marijuana establishment license upon payment of the fee and
3 compliance with all local licensing requirements to be determined by
4 the local licensing authority.

5 2. (1) A local licensing authority shall not issue a local license
6 within a municipality or the unincorporated portion of a county unless
7 the governing body of the municipality has adopted an ordinance or the
8 governing body of the county has adopted a resolution containing
9 specific standards for license issuance, or if no such ordinance or
10 resolution is adopted prior to January 1, 2018, a local licensing
11 authority shall consider the minimum licensing requirements of this
12 section when issuing a license.

13 (2) In addition to all other standards applicable to the issuance
14 of licenses under sections 195.1000 to 195.1280, the local governing body
15 may adopt additional standards for the issuance of retail marijuana
16 establishment licenses consistent with the intent of sections 195.1000
17 to 195.1280 that may include:

18 (a) Distance restrictions between premises for which local
19 licenses are issued;

20 (b) Reasonable restrictions on the size of an applicant's licensed

21 premises; and

22 (c) Any other requirements necessary to ensure the control of the
23 premises and the ease of enforcement of the terms and conditions of the
24 license.

25 3. An application for a license specified in subsection 1 of this
26 section shall be filed with the appropriate local licensing authority on
27 forms provided by the state licensing authority and shall contain such
28 information as the state licensing authority may require and any forms
29 as the local licensing authority may require. Each application shall be
30 verified by the oath or affirmation of the persons prescribed by the
31 state licensing authority.

32 4. An applicant shall file with the application for a local license,
33 plans and specifications for the interior of the building if the building
34 to be occupied is in existence at the time. If the building is not in
35 existence, the applicant shall file a plot plan and a detailed sketch for
36 the interior and submit an architect's drawing of the building to be
37 constructed. In its discretion, the local or state licensing authority may
38 impose additional requirements necessary for the approval of the
39 application.

195.1040. 1. Upon receipt of an application for a local license,
2 except an application for renewal or for transfer of ownership, a local
3 licensing authority shall schedule and hold a public hearing upon the
4 application to be held not less than thirty days after the date of the
5 application, but not more than ninety days from the date of the
6 application. If the local licensing authority fails to hold a public
7 hearing within such time lines, the application shall be considered
8 approved. If the local licensing authority schedules a hearing, it shall
9 post and publish public notice thereof not less than ten days prior to
10 the hearing. The local licensing authority shall give public notice by
11 the posting of a sign in a conspicuous place on the premises for which
12 application has been made and by publication in a newspaper of
13 general circulation in the county in which the applicant's premises are
14 located.

15 2. Public notice given by posting shall include a sign of suitable
16 material, not less than twenty-two inches wide and twenty-six inches
17 high, composed of letters not less than one inch in height and stating
18 the type of license applied for, the date of the hearing, the name and

19 address of the applicant, and such other information as may be
20 required to fully apprise the public of the nature of the
21 application. The sign shall contain the names and addresses of the
22 officers, directors, or manager of the facility to be licensed.

23 3. Public notice given by publication shall contain the same
24 information as that required for signs.

25 4. If the building in which retail marijuana is to be sold is in
26 existence at the time of the application, a sign posted as required in
27 subsections 1 and 2 of this section shall be placed so as to be
28 conspicuous and plainly visible to the general public. If the building
29 is not constructed at the time of the application, the applicant shall
30 post a sign at the premises upon which the building is to be
31 constructed in such a manner that the notice shall be conspicuous and
32 plainly visible to the general public.

33 5. (1) A local licensing authority or a license applicant with local
34 licensing authority approval may request that the state licensing
35 authority conduct a concurrent review of a new license application
36 prior to the local licensing authority's final approval of the license
37 application. Local licensing authorities who permit concurrent review
38 shall continue to independently review the applicant's license
39 application.

40 (2) When conducting a concurrent application review, the state
41 licensing authority may advise the local licensing authority of any
42 items that it finds that may result in the denial of the license
43 application. Upon correction of the noted discrepancies if the
44 correction is permitted by the state licensing authority, the state
45 licensing authority shall notify the local licensing authority of its
46 conditional approval of the license application subject to the final
47 approval by the local licensing authority. The state licensing authority
48 shall then issue the applicant's state license upon receiving evidence
49 of final approval by the local licensing authority.

50 (3) All applications submitted for concurrent review shall be
51 accompanied by all applicable state license and application fees. Any
52 applications which are later denied or withdrawn may allow for a
53 refund of license fees only. All application fees provided by an
54 applicant shall be retained by the respective licensing authority.

55 6. When the state licensing authority receives an application for

56 original licensing or renewal of an existing license for any retail
57 marijuana establishment, the state licensing authority shall provide,
58 within seven days, a copy of the application to the city, town, village,
59 or county in which the establishment is to be located. If the city, town,
60 village, or county allows retail marijuana establishments in its
61 jurisdiction, the city, town, village, or county shall determine whether
62 the application complies with local restrictions on time, place, manner,
63 and the number of marijuana businesses. The local jurisdiction shall
64 inform the state licensing authority whether the application complies
65 with local restrictions on time, place, manner, and the number of retail
66 marijuana establishments.

67 7. A local licensing authority shall notify the state licensing
68 authority that it either approves or denies each application forwarded
69 to it.

195.1050. 1. Not less than five days prior to the date of the public
2 hearing authorized in section 195.1040, the local licensing authority
3 shall make known its findings, based on its investigation, in writing to
4 the applicant and other parties of interest. The local licensing
5 authority has authority to refuse to issue a license provided for in this
6 section for good cause, subject to judicial review.

7 2. Before entering a decision approving or denying the
8 application for a local license, the local licensing authority may
9 consider, except where sections 195.1000 to 195.1280 specifically
10 provide otherwise, the facts and evidence adduced as a result of its
11 investigation, as well as any other facts pertinent to the type of license
12 for which application has been made, including the number, type, and
13 availability of retail marijuana establishments located in or near the
14 premises under consideration, and any other pertinent matters
15 affecting the qualifications of the applicant for the conduct of the type
16 of business proposed.

17 3. Within thirty days after the public hearing or completion of
18 the application investigation, a local licensing authority shall issue its
19 decision approving or denying an application for local licensure. The
20 decision shall be in writing and shall state the reasons for the
21 decision. The local licensing authority shall send a copy of the decision
22 by certified mail to the applicant at the address shown in the
23 application.

24 4. After approval of an application, a local licensing authority
25 shall not issue a local license until the building in which the business
26 to be conducted is ready for occupancy with such furniture, fixtures,
27 and equipment in place as are necessary to comply with the applicable
28 provisions of sections 195.1000 to 195.1280, and then only after the local
29 licensing authority has inspected the premises to determine that the
30 applicant has complied with the architect's drawing and the plot plan
31 and detailed sketch for the interior of the buildings submitted with the
32 application.

 195.1060. Before the division issues a state license to an
2 applicant, the applicant shall:

3 (1) (a) Procure and file with the division evidence of a good and
4 sufficient bond in the amount of five thousand dollars with corporate
5 surety thereon duly licensed to do business with the state, approved as
6 to form by the state attorney general, and conditioned that the
7 applicant shall report and pay all sales and use taxes due to the state,
8 or for which the state is the collector or collecting agent, in a timely
9 manner, as provided in law.

10 (b) A corporate surety shall not be required to make payments
11 to the state claiming under such bond until a final determination of
12 failure to pay taxes due to the state has been made by the division or
13 a court of competent jurisdiction.

14 (c) All bonds required under this subdivision shall be renewed
15 at such time as the bondholder's license is renewed. The renewal may
16 be accomplished through a continuation certificate issued by the
17 surety; and

18 (2) Submit documentation acceptable to the division that the
19 applicant has at least five hundred thousand dollars in liquid
20 assets. Documentation acceptable to the division includes a signed
21 statement from a Missouri certified public accountant attesting to proof
22 of the required amount of liquid assets under the control of the
23 applicant. Such statement shall be dated within thirty calendar days
24 before the date the application is submitted.

 195.1070. 1. Applications for a state license under the provisions
2 of sections 195.1000 to 195.1280 shall be made to the division on forms
3 prepared and furnished by the division and shall set forth such
4 information as the division may require to enable the division to

5 determine whether a state license shall be granted. The information
6 shall include the name and address of the applicant, the names and
7 addresses of the officers, directors, or managers, and all other
8 information deemed necessary by the division. Each application shall
9 be verified by the oath or affirmation of such person or persons as the
10 division may prescribe.

11 2. The division shall not issue a state license under this section
12 until the local licensing authority has approved the application for a
13 local license and issued a local license as provided for in sections
14 195.1000 to 195.1280.

15 3. Nothing in sections 195.1000 to 195.1280 shall preempt or
16 otherwise impair the power of a local government to enact ordinances
17 or resolutions concerning matters authorized to local governments.

195.1080. 1. The division shall deny a state license if the
2 premises on which the applicant proposes to conduct its business do
3 not meet the requirements of sections 195.1000 to 195.1280.

4 2. If the division denies a state license under subsection 1 of this
5 section, the applicant shall be entitled to a hearing before the
6 administrative hearing commission. The division shall provide written
7 notice of the grounds for denial of the state license to the applicant and
8 to the local licensing authority at least fifteen days prior to the
9 hearing.

195.1090. 1. A license provided by sections 195.1000 to 195.1280
2 shall not be issued to or held by:

- 3 (1) A person until the annual fee has been paid;
- 4 (2) A person whose criminal history indicates that he or she is
5 not of good moral character;
- 6 (3) A corporation, if the criminal history of any of its officers,
7 directors, or stockholders indicates that the officer, director, or
8 stockholder is not of good moral character;
- 9 (4) A person employing, assisted by, or financed in whole or in
10 part by any other person whose criminal history indicates he or she is
11 not of good moral character and reputation satisfactory to the
12 respective licensing authority;
- 13 (5) A person under twenty-one years of age;
- 14 (6) A person licensed under sections 195.1000 to 195.1280 who
15 during a period of licensure or who at the time of application has failed

16 to:

17 (a) Provide a surety bond, proof of liquid assets, or file any tax
18 return with a taxing agency;

19 (b) Pay any taxes, interest, or penalties due;

20 (c) Pay any judgments due to a government agency;

21 (d) Stay out of default on a government-issued student loan;

22 (e) Pay child support; or

23 (f) Remedy an outstanding delinquency for taxes owed, an
24 outstanding delinquency for judgments owed to a government agency,
25 or an outstanding delinquency for child support.

26 (7) A person who has discharged a sentence in the five years
27 immediately preceding the application date for a conviction of a felony
28 or a person who at any time has been convicted of a felony under any
29 state or federal law regarding the possession, distribution, or use of a
30 controlled substance;

31 (8) A person who employs another person at a retail marijuana
32 establishment who has not passed a criminal background check;

33 (9) A sheriff, deputy sheriff, police officer, or prosecuting officer,
34 or any officer or employee of the division or a local licensing authority;

35 (10) A person for a license for a location that is currently
36 licensed as a retail food establishment or wholesale food registrant; or

37 (11) A person who is an officer who is not a resident of
38 Missouri. All officers shall be residents of Missouri, however, managers
39 and employees may be nonresidents. All stockholders who legally and
40 beneficially own or control sixty percent or more of the stock in
41 amount and in voting rights shall be residents of Missouri and bona
42 fide residents of the state for a period of three years continuously
43 immediately prior to the date of filing of application for a license.

44 2. (1) In investigating the qualifications of an applicant or a
45 licensee, the division shall have access to criminal background check
46 information furnished by a criminal justice agency subject to any
47 restrictions imposed by such agency. In the event the division
48 considers the applicant's criminal background check information, the
49 division shall also consider any information provided by the applicant
50 regarding such criminal background check, including but not limited
51 to evidence of rehabilitation, character references, and educational
52 achievements, especially those items pertaining to the period of time

53 between the applicant's last criminal conviction and the consideration
54 of the application for a state license.

55 (2) As used in subdivision (1) of this subsection, "criminal justice
56 agency" means any federal, state, or municipal court or any
57 governmental agency or subunit of such agency that administers
58 criminal justice under a statute or executive order and that allocates
59 a substantial part of its annual budget to the administration of criminal
60 justice.

61 (3) At the time of filing an application for issuance or renewal of
62 a license for a retail marijuana establishment, an applicant shall submit
63 a set of his or her fingerprints and file personal history information
64 concerning the applicant's qualifications for a state license on forms
65 prepared by the division. The division shall submit the fingerprints to
66 the Missouri state highway patrol for the purpose of conducting a
67 fingerprint-based criminal background check. The Missouri state
68 highway patrol shall forward the fingerprints to the Federal Bureau of
69 Investigation for the purpose of conducting a fingerprint-based
70 criminal background check. The division may acquire a name-based
71 criminal background check for an applicant or a license holder who has
72 twice submitted to a fingerprint-based criminal background check and
73 whose fingerprints are unclassifiable. An applicant who has previously
74 submitted fingerprints for state licensing purposes may request that
75 the fingerprints on file be used. The division shall use the information
76 resulting from the fingerprint-based criminal history record check to
77 investigate and determine whether an applicant is qualified to hold a
78 state license under sections 195.1000 to 195.1280. The division may
79 verify any of the information an applicant is required to submit.

195.1100. The division or a local licensing authority shall not
2 receive or act upon an application for the issuance of a state or local
3 license under sections 195.1000 to 195.1280:

4 (1) If the application for a state or local license concerns a
5 particular location that is the same as or within one thousand feet of
6 a location for which, within the two years immediately preceding the
7 date of the application, the division or a local licensing authority
8 denied an application for the same class of license due to the nature of
9 the use or other concern related to the location;

10 (2) Until it is established that the applicant is or shall be entitled

11 to possession of the premises for which application is made under a
12 lease, rental agreement, or other arrangement for possession of the
13 premises or by virtue of ownership of the premises;

14 (3) For a location in an area where the cultivation, manufacture,
15 and sale of retail marijuana as contemplated is not permitted under the
16 applicable local zoning laws of the municipality or county;

17 (4) If the building in which retail marijuana is to be sold is
18 located within one thousand feet of a school; an alcohol or drug
19 treatment facility; or the principal campus of a college, university, or
20 seminary, or a residential child care facility. The provisions of this
21 subdivision shall not affect the renewal or reissuance of a license once
22 granted or apply to licensed premises located or to be located on land
23 owned by a municipality, nor shall the provisions of this subdivision
24 apply to an existing licensed premises on land owned by the state, or
25 apply to a license in effect and actively doing business before such
26 principal campus was constructed. The distances referred to in this
27 subdivision are to be computed by direct measurement from the nearest
28 property line of the land used for a school or campus to the nearest
29 portion of the building in which retail marijuana is to be sold. In
30 addition to the requirements of section 195.1030, the local licensing
31 authority shall consider the evidence and make a specific finding of
32 fact as to whether the building in which the retail marijuana is to be
33 sold is located within the distance restrictions established by or under
34 this subdivision.

195.1110. 1. A state or local license granted under the provisions
2 of sections 195.1000 to 195.1280 shall not be transferable except as
3 provided in this section, but this section shall not prevent a change of
4 location as provided in subsection 13 of section 195.1120.

5 2. For a transfer of ownership, a license holder shall apply to the
6 division and the local licensing authority on forms prepared and
7 furnished by the division. In determining whether to permit a transfer
8 of ownership, the division and the local licensing authority shall
9 consider only the requirements of sections 195.1000 to 195.1280, any
10 rules promulgated by the division, and any other local restrictions. The
11 local licensing authority may hold a hearing on the application for
12 transfer of ownership. The local licensing authority shall not hold a
13 hearing under this subsection until the local licensing authority has

14 posted a notice of hearing in the manner described in section 195.1040
15 on the licensed premises for a period of ten days and has provided
16 notice of the hearing to the applicant at least ten days prior to the
17 hearing. Any transfer of ownership hearing by the division shall be
18 held in compliance with the requirements specified in section 195.1040.

195.1120. 1. Sections 195.1000 to 195.1280 authorize a county or
2 municipality to enact reasonable regulations or other restrictions
3 applicable to licenses of retail marijuana establishments based on local
4 zoning, health, safety, and public welfare laws for the distribution of
5 retail marijuana that are more restrictive than sections 195.1000 to
6 195.1280.

7 2. A retail marijuana establishment shall not operate until it has
8 been licensed by the local licensing authority and the state licensing
9 authority under sections 195.1000 to 195.1280. In connection with a
10 license, the applicant shall provide a complete and accurate list of all
11 owners, officers, and employees who work at, manage, own, or are
12 otherwise associated with the operation and shall provide a complete
13 and accurate application as required by the division.

14 3. A retail marijuana establishment shall notify the division in
15 writing within ten days after an owner, officer, or employee ceases to
16 work at, manage, own, or otherwise be associated with the
17 operation. The owner, officer, or employee shall surrender his or her
18 identification card to the division on or before the date of the
19 notification.

20 4. A retail marijuana establishment shall notify the division in
21 writing of the name, address, and date of birth of an owner, officer,
22 manager, or employee before the new owner, officer, or employee
23 begins working at, managing, owning, or begins an association with the
24 operation. The owner, officer, manager, or employee shall pass a
25 fingerprint-based criminal background check as required by the
26 division and obtain the required identification prior to being
27 associated with, managing, owning, or working at the operation.

28 5. All owners of a retail marijuana establishment shall be
29 authorized to do business in Missouri. A local licensing authority shall
30 not issue a license provided for in sections 195.1000 to 195.1280 until
31 that share of the license application fee due to the state has been
32 received by the division. All licenses granted under sections 195.1000

33 to 195.1280 shall be valid for a period not to exceed two years from the
34 date of issuance unless revoked or suspended under sections 195.1000
35 to 195.1280 or the rules promulgated under sections 195.1000 to
36 195.1280.

37 6. A retail marijuana establishment shall not acquire, possess,
38 cultivate, deliver, transfer, transport, supply, or dispense marijuana for
39 any purpose except as authorized under sections 195.1000 to 195.1280.

40 7. Before granting a local or state license, the respective
41 licensing authority may consider, except where sections 195.1000 to
42 195.1280 specifically provide otherwise, the requirements of sections
43 195.1000 to 195.1280 and any rules promulgated under sections 195.1000
44 to 195.1280, and all other reasonable restrictions that are or may be
45 placed upon the licensee by the licensing authority. With respect to a
46 second or additional license for the same licensee or the same owner
47 of another licensed business under sections 195.1000 to 195.1280, each
48 licensing authority shall consider the effect on competition of granting
49 or denying the additional licenses to such licensee and shall not
50 approve an application for a second or additional license that has the
51 effect of restraining competition.

52 8. (1) Each license issued under sections 195.1000 to 195.1280 is
53 separate and distinct. It is unlawful for a person to exercise any of the
54 privileges granted under a license other than the license that the
55 person holds or for a licensee to allow any other person to exercise the
56 privileges granted under the licensee's license. A separate license shall
57 be required for each specific business or business entity and each
58 geographical location.

59 (2) At all times, a licensee shall possess and maintain possession
60 of the premises for which the license is issued by ownership, lease,
61 rental, or other arrangement for possession of the premises.

62 9. (1) The licenses provided under sections 195.1000 to 195.1280
63 shall specify the date of issuance, the period of licensure, the name of
64 the licensee, and the premises licensed. The licensee shall
65 conspicuously display the license at all times on the licensed premises.

66 (2) A local licensing authority shall not transfer location of or
67 renew a license to sell retail marijuana until the applicant for the
68 license produces a license issued and granted by the state licensing
69 authority covering the whole period for which a license or license

70 renewal is sought.

71 **10. In computing any period of time prescribed by sections**
72 **195.1000 to 195.1280, the day of the act, event, or default from which the**
73 **designated period of time begins to run shall not be**
74 **included. Saturdays, Sundays, and legal holidays shall be counted as**
75 **any other day.**

76 **11. A licensee shall report each transfer or change of financial**
77 **interest in the license to the division and the local licensing authority**
78 **thirty days prior to any transfer or change under subsection 13 of this**
79 **section. A report shall be required for transfers of capital stock of any**
80 **corporation regardless of size.**

81 **12. Each licensee shall manage the licensed premises himself or**
82 **herself or employ a separate and distinct manager on the premises and**
83 **shall report the name of the manager to the division and the local**
84 **licensing authority. The licensee shall report any change in manager**
85 **to the division and local licensing authority thirty days prior to such**
86 **change.**

87 **13. (1) A licensee may move his or her permanent location to any**
88 **other place in the same municipality for which the license was**
89 **originally granted, or in the same county if the license was granted for**
90 **a place outside the corporate limits of a municipality, but it shall be**
91 **unlawful to cultivate, manufacture, distribute, or sell retail marijuana**
92 **at any such place until permission to do so is granted by the division**
93 **and the local licensing authority provided for in sections 195.1000 to**
94 **195.1280.**

95 **(2) In permitting a change of location, the division and the local**
96 **licensing authority shall consider all reasonable restrictions that are**
97 **or may be placed upon the new location by the governing body or local**
98 **licensing authority of the municipality or county any such change in**
99 **location shall be in accordance with all requirements of sections**
100 **195.1000 to 195.1280 and rules promulgated under sections 195.1000 to**
101 **195.1280.**

195.1130. 1. (1) Ninety days prior to the expiration date of an
2 **existing license, the division shall notify the licensee of the expiration**
3 **date by first class mail at the licensee's address of record with the**
4 **division. A licensee shall apply for the renewal of an existing license**
5 **to the local licensing authority not less than forty-five days and to the**

6 division not less than thirty days prior to the date of expiration. A
7 local licensing authority shall not accept an application for renewal of
8 a license after the date of expiration, except as provided in subsection
9 2 of this section. The division may extend the expiration date of the
10 license and accept a late application for renewal of a license provided
11 that the applicant has filed a timely renewal application with the local
12 licensing authority. All renewals filed with the local licensing
13 authority and subsequently approved by the local licensing authority
14 shall next be processed by the division. The division or the local
15 licensing authority, in its discretion, subject to the requirements of this
16 section and based upon reasonable grounds, may waive the forty-five
17 day or thirty day time requirements set forth in this subsection. The
18 local licensing authority may hold a hearing on the application for
19 renewal only if the licensee has had complaints filed against it, has a
20 history of violations, or there are allegations against the licensee that
21 constitute good cause.

22 (2) The local licensing authority shall not hold a renewal hearing
23 provided for by this subsection for a retail marijuana establishment
24 until it has posted a notice of hearing on the licensed premises in the
25 manner described in section 195.1040 for a period of ten days and
26 provided notice to the applicant at least ten days prior to the
27 hearing. The local licensing authority may refuse to renew any license
28 for good cause, subject to judicial review.

29 2. (1) Notwithstanding the provisions of subsection 1 of this
30 section, a licensee whose license has been expired for not more than
31 ninety days may file a late renewal application upon the payment of a
32 nonrefundable late application fee of five hundred dollars to the local
33 licensing authority. A licensee who files a late renewal application and
34 pays the requisite fees may continue to operate until both the state and
35 local licensing authorities have taken final action to approve or deny
36 the licensee's late renewal application.

37 (2) The state and local licensing authorities shall not accept a
38 late renewal application more than ninety days after the expiration of
39 a licensee's permanent annual license. A licensee whose permanent
40 annual license has been expired for more than ninety days shall not
41 cultivate, manufacture, distribute, or sell any retail marijuana until all
42 required licenses have been obtained.

195.1140. The division or local licensing authority may, in its
2 discretion, revoke or elect not to renew any license if it determines that
3 the licensed premises have been inactive without good cause for at
4 least one year.

195.1150. 1. The division, by rule, shall require a complete
2 disclosure of all persons having a direct or indirect financial interest
3 and the extent of such interest in each license issued under sections
4 195.1000 to 195.1280.

5 2. A person shall not have an unreported financial interest in a
6 license under sections 195.1000 to 195.1280 unless such person has
7 undergone a fingerprint-based criminal background check as provided
8 for by the division in its rules; except that, this subsection shall not
9 apply to banks, savings and loan associations, or industrial banks
10 supervised and regulated by an agency of the state or federal
11 government, or to FHA-approved mortgagees, or to stockholders,
12 directors, or officers thereof.

13 3. This section is intended to prohibit and prevent the control of
14 the outlets for the sale of retail marijuana by a person or party other
15 than the persons licensed under the provisions of sections 195.1000 to
16 195.1280.

195.1160. 1. For the purpose of regulating the cultivation,
2 manufacture, distribution, testing and sale of retail marijuana, the
3 division may, in its discretion and upon application in the prescribed
4 form made to it, issue and grant to the applicant a license or
5 registration from any of the following classes, subject to the provisions
6 and restrictions provided by sections 195.1000 to 195.1280:

- 7 (1) A retail marijuana store;
- 8 (2) A retail marijuana cultivation facility;
- 9 (3) A retail marijuana products manufacturer;
- 10 (4) A retail marijuana testing facility;
- 11 (5) Occupational licenses and registrations for owners, managers,
12 operators, employees, contractors, and other support staff employed by,
13 working in, or having access to restricted areas of the licensed
14 premises as determined by the division. The division may take any
15 action with respect to a registration under sections 195.1000 to 195.1280
16 as it may with respect to a license under sections 195.1000 to 195.1280,
17 in accordance with the procedures established under sections 195.1000

18 to 195.1280.

19 2. All persons licensed under sections 195.1000 to 195.1280 shall
20 collect sales tax on all retail sales made at a retail marijuana store.

21 3. A state-chartered bank or a credit union may loan money to
22 any person licensed under sections 195.1000 to 195.1280 for the
23 operation of a licensed business.

 195.1170. 1. A retail marijuana store license shall be issued only
2 to a person selling retail marijuana or retail marijuana products under
3 the terms and conditions of sections 195.1000 to 195.1280.

4 2. A retail marijuana store may cultivate its own retail marijuana
5 if it obtains a retail marijuana cultivation facility license, or it may
6 purchase retail marijuana from a licensed retail marijuana cultivation
7 facility.

8 3. The retail marijuana store shall track all of its retail
9 marijuana and retail marijuana products from the point that they are
10 transferred from a retail marijuana cultivation facility or retail
11 marijuana products manufacturer to the point of sale.

12 4. A retail marijuana store licensee may transact with a retail
13 marijuana products manufacturing licensee for the purchase of retail
14 marijuana products upon a retail marijuana products manufacturing
15 licensee's licensed premises or a retail marijuana store's licensed
16 premises.

17 5. A retail marijuana store may not sell more than one ounce of
18 retail marijuana or its equivalent in retail marijuana products,
19 including retail marijuana concentrate, during a single transaction to
20 a person who has a valid identification card showing that the person
21 is a resident of the state of Missouri.

22 6. A retail marijuana store may not sell more than a quarter of
23 an ounce of retail marijuana or its equivalent in retail marijuana
24 products, including retail marijuana concentrate, during a single
25 transaction to a person who does not have a valid identification card
26 showing that the person is a resident of the state of Missouri.

27 7. Prior to initiating a sale, the employee of the retail marijuana
28 store making the sale shall verify that the purchaser has a valid
29 identification card showing the purchaser is twenty-one years of age or
30 older. If a person under twenty-one years of age presents a fraudulent
31 proof of age, any action relying on the fraudulent proof of age shall not

32 be grounds for the revocation or suspension of any license issued under
33 sections 195.1000 to 195.1280.

34 8. If a retail marijuana store licensee or employee has reasonable
35 cause to believe that a person is under twenty-one years of age and is
36 exhibiting fraudulent proof of age in an attempt to obtain any retail
37 marijuana or marijuana-infused product, the licensee or employee is
38 authorized to confiscate such fraudulent proof of age, if possible, and
39 shall, within seventy-two hours after the confiscation, remit to a state
40 or local law enforcement agency. The failure to confiscate such
41 fraudulent proof of age or to remit to a state or local law enforcement
42 agency within seventy-two hours after the confiscation does not
43 constitute a criminal offense.

44 9. If a retail marijuana store licensee or employee believes that
45 a person is under twenty-one years of age and is exhibiting fraudulent
46 proof of age in an attempt to obtain any retail marijuana or retail
47 marijuana-infused product, the licensee or employee or any peace
48 officer, acting in good faith and upon probable cause based upon
49 reasonable grounds therefor, may detain and question such person in
50 a reasonable manner for the purpose of ascertaining whether the
51 person is guilty of any unlawful act regarding the purchase of retail
52 marijuana. The questioning of a person by an employee or a peace
53 officer does not render the licensee, the employee, or the peace officer
54 civilly or criminally liable for slander, false arrest, false imprisonment,
55 malicious prosecution, or unlawful detention.

56 10. A retail marijuana store may provide a sample of its products
57 to a facility that has a marijuana testing facility license from the state
58 licensing authority for testing and research purposes. A retail
59 marijuana store shall maintain a record of what was provided to the
60 testing facility, the identity of the testing facility, and the results of the
61 testing.

62 11. All retail marijuana and retail marijuana products sold at a
63 licensed retail marijuana store shall be packaged and labeled as
64 required by rules of the state licensing authority promulgated under
65 sections 195.1000 to 195.1280.

66 12. A licensed retail marijuana store may only sell retail
67 marijuana, retail marijuana products, marijuana accessories,
68 nonconsumable products such as apparel, and marijuana related

69 products such as childproof packaging containers, but shall be
70 prohibited from selling or giving away any consumable product,
71 including cigarettes or alcohol, or edible product that does not contain
72 marijuana, including sodas, candies, or baked goods.

73 13. A licensed retail marijuana store may not sell any retail
74 marijuana or retail marijuana products that contain nicotine or
75 alcohol, if the sale of the alcohol would require a license under chapter
76 311.

77 14. A licensed retail marijuana store shall not sell retail
78 marijuana or retail marijuana products over the internet nor deliver
79 retail marijuana or retail marijuana products to a person not physically
80 present in the retail marijuana store's licensed premises.

81 15. The premises of a licensed retail marijuana store is the only
82 place where an automatic dispensing machine that contains retail
83 marijuana or retail marijuana products may be located. If a licensed
84 retail marijuana store uses an automatic dispensing machine that
85 contains retail marijuana and retail marijuana products, it shall comply
86 with the regulations promulgated by the state licensing authority for
87 its use.

88 16. Retail marijuana or retail marijuana products may not be
89 consumed on the premises of a retail marijuana store.

90 17. Retail marijuana shall be packaged in plain, opaque,
91 tamper-proof, and child-proof containers without depictions of the
92 product, cartoons, or images other than the retail marijuana
93 establishment's logo. Edibles shall not bear a reasonable resemblance
94 to any product available for consumption as commercially available
95 candy, cakes, and cookies.

96 18. A retail marijuana establishment shall comply with all
97 provisions of law as such provisions relate to persons with disabilities.

195.1180. 1. A retail marijuana cultivation facility license may
2 be issued only to a person who cultivates retail marijuana for sale and
3 distribution to licensed retail marijuana stores, retail marijuana
4 products manufacturing licensees, or other retail marijuana cultivation
5 facilities.

6 2. A retail marijuana cultivation facility shall track the
7 marijuana it cultivates from seed or immature plant to wholesale
8 purchase.

9 3. A retail marijuana cultivation facility may provide a sample
10 of its products to a facility that has a marijuana testing facility license
11 from the state licensing authority for testing and research purposes. A
12 retail marijuana cultivation facility shall maintain a record of what was
13 provided to the testing facility, the identity of the testing facility, and
14 the testing results.

15 4. Retail marijuana or retail marijuana products may not be
16 consumed on the premises of a retail marijuana cultivation facility.

195.1190. 1. A retail marijuana products manufacturing license
2 may be issued to a person who manufactures retail marijuana products
3 under the terms and conditions of sections 195.1000 to 195.1280.

4 2. A retail marijuana products manufacturer may cultivate its
5 own retail marijuana if it obtains a retail marijuana cultivation facility
6 license, or it may purchase retail marijuana from a licensed retail
7 marijuana cultivation facility. A retail marijuana products
8 manufacturer shall track all of its retail marijuana from the point it is
9 either transferred from its retail marijuana cultivation facility or the
10 point when it is delivered to the retail marijuana products
11 manufacturer from a licensed retail marijuana cultivation facility to
12 the point of transfer to a licensed retail marijuana store.

13 3. A retail marijuana products manufacturer shall not:

14 (1) Add any marijuana to a food product where the manufacturer
15 of the food product holds a trademark to the food product's name;
16 except that a manufacturer may use a trademarked food product if the
17 manufacturer uses the product as a component or as part of a recipe
18 and where the marijuana product manufacturer does not state or
19 advertise to the consumer that the final retail marijuana product
20 contains a trademarked food product;

21 (2) Intentionally or knowingly label or package a retail
22 marijuana product in a manner that would cause a reasonable
23 consumer confusion as to whether the retail marijuana product was a
24 trademarked food product; or

25 (3) Label or package a product in a manner that violates any
26 federal trademark law or regulation.

27 4. Retail marijuana products shall be prepared on a licensed
28 premises that is used exclusively for the manufacture and preparation
29 of retail marijuana or retail marijuana products and using equipment

30 that is used exclusively for the manufacture and preparation of retail
31 marijuana products.

32 5. All licensed premises on which retail marijuana products are
33 manufactured shall meet the sanitary standards for retail marijuana
34 product preparation promulgated under sections 195.1000 to 195.1280.

35 6. The retail marijuana product shall be sealed and
36 conspicuously labeled in compliance with sections 195.1000 to 195.1280
37 and any rules promulgated under sections 195.1000 to 195.1280. The
38 labeling of retail marijuana products is a matter of statewide concern.

39 7. Retail marijuana or retail marijuana products may not be
40 consumed on the premises of a retail marijuana products
41 manufacturing facility.

42 8. A retail marijuana products manufacturer may provide a
43 sample of its products to a facility that has a retail marijuana testing
44 facility license from the state licensing authority for testing and
45 research purposes. A retail marijuana products manufacturer shall
46 maintain a record of what was provided to the testing facility, the
47 identity of the testing facility, and the results of the testing.

48 9. An edible retail marijuana product may list its ingredients and
49 compatibility with dietary practices.

50 10. A licensed retail marijuana products manufacturer shall
51 package and label each product manufactured as required by rules of
52 the state licensing authority under sections 195.1000 to 195.1280.

53 11. All retail marijuana products that require refrigeration to
54 prevent spoilage shall be stored and transported in a refrigerated
55 environment.

195.1200. 1. A retail marijuana testing facility license may be
2 issued to a person who performs testing and research on retail
3 marijuana. The facility may develop and test retail marijuana products.

4 2. The state licensing authority shall promulgate rules related to
5 acceptable testing and research practices, including testing, standards,
6 quality control analysis, equipment certification and calibration, and
7 chemical identification and other substances used in bona fide research
8 methods.

9 3. A person who has an interest in a retail marijuana testing
10 facility license from the state licensing authority for testing purposes
11 shall not have any interest in a licensed retail marijuana store, a

12 licensed retail marijuana cultivation facility, or a licensed retail
13 marijuana products manufacturer. A person that has an interest in a
14 licensed retail marijuana store, a licensed retail marijuana cultivation
15 facility, or a licensed retail marijuana products manufacturer shall not
16 have an interest in a facility that has a retail marijuana testing facility
17 license.

195.1210. 1. There is hereby created in the state treasury the
2 "Retail Marijuana License Cash Fund", which shall consist of all money
3 collected by the division under sections 195.1000 to 195.1280. The state
4 treasurer shall be custodian of the fund. In accordance with sections
5 30.170 and 30.180, the state treasurer may approve disbursements. The
6 fund shall be a dedicated fund and, upon appropriation, money in the
7 fund shall be used solely for the administration of sections 195.1000 to
8 195.1280.

9 2. Notwithstanding the provisions of section 33.080 to the
10 contrary, any moneys remaining in the fund at the end of the biennium
11 shall not revert to the credit of the general revenue fund.

12 3. The state treasurer shall invest moneys in the fund in the
13 same manner as other funds are invested. Any interest and moneys
14 earned on such investments shall be credited to the fund.

15 4. (1) The state licensing authority shall require all applicants
16 for initial state licenses under sections 195.1000 to 195.1280 to submit
17 a nonrefundable application fee of five hundred dollars for a retail
18 marijuana store license and two thousand five hundred dollars for a
19 retail marijuana cultivation facility.

20 (2) The division shall establish all other fees for processing the
21 following types of applications, licenses, notices, or reports required to
22 be submitted to the state licensing authority:

23 (a) Applications to change location;

24 (b) Applications for transfer of ownership;

25 (c) License renewal and expired license renewal applications;

26 and

27 (d) Other licenses listed under section 195.1160.

28 (3) The amounts of the fees under subdivisions (1) and (2) of this
29 subsection, when added to the other fees transferred to the fund under
30 this section, shall reflect the actual direct and indirect costs of the
31 division in the administration and enforcement of sections 195.1000 to

32 **195.1280.**

33 **(4) The division may charge applicants licensed under sections**
34 **195.1000 to 195.1280 a fee for the cost of each fingerprint analysis and**
35 **background investigation undertaken to qualify new officers, directors,**
36 **managers, or employees.**

37 **(5) At least annually, the division shall review the amounts of the**
38 **fees and, if necessary, adjust the amounts to reflect the direct and**
39 **indirect costs of the division.**

40 **5. Except as provided in subsection 4 of this section, the division**
41 **shall establish a basic fee that shall be paid at the time of service of**
42 **any subpoena upon the division, plus a fee for meals and a fee for**
43 **mileage at the rate prescribed for state officers and employees, for each**
44 **mile actually and necessarily traveled in going to and returning from**
45 **the place named in the subpoena. If the person named in the subpoena**
46 **is required to attend the place named in the subpoena for more than**
47 **one day, there shall be paid, in advance, a sum to be established by the**
48 **division for each day of attendance to cover the expenses of the person**
49 **named in the subpoena.**

50 **6. The subpoena fee established under subsection 5 of this**
51 **section shall not be applicable to any federal, state, or local**
52 **governmental agency.**

195.1220. 1. Except as otherwise provided, all fees and fines
2 **provided for by sections 195.1000 to 195.1280 shall be paid to the**
3 **division, which shall transmit the fees to the state treasurer. The state**
4 **treasurer shall credit the fees to the retail marijuana license cash fund**
5 **created in section 195.1210.**

6 **2. The expenditures of the division shall be paid out of**
7 **appropriations from the retail marijuana license cash fund created in**
8 **section 195.1210.**

195.1230. 1. Each application for a local license provided for in
2 **sections 195.1000 to 195.1280 filed with a local licensing authority shall**
3 **be accompanied by an application fee and a license fee in an amount**
4 **determined by the local licensing authority not to exceed ten percent**
5 **of the state application fee and license fee.**

6 **2. License fees as determined by the local licensing authority**
7 **shall be paid to the treasurer of the municipality or county where the**
8 **licensed premises is located in advance of the approval, denial, or**

9 renewal of the license.

195.1240. 1. In addition to any other sanctions prescribed by
2 sections 195.1000 to 195.1280 or rules promulgated under sections
3 195.1000 to 195.1280, the division or a local licensing authority has the
4 power, on its own motion or on complaint, after investigation and
5 opportunity for a public hearing at which the licensee shall be afforded
6 an opportunity to be heard, to suspend or revoke a license issued by
7 the respective authority for a violation by the licensee or by any of the
8 agents or employees of the licensee of the provisions of sections
9 195.1000 to 195.1280, or any of the rules promulgated under sections
10 195.1000 to 195.1280, or of any of the terms, conditions, or provisions of
11 the license issued by the division or local licensing authority. The
12 division or a local licensing authority has the power to administer
13 oaths and issue subpoenas to require the presence of persons and the
14 production of papers, books, and records necessary to the
15 determination of a hearing that the division or local licensing authority
16 is authorized to conduct.

17 2. The division or local licensing authority shall provide notice
18 of suspension, revocation, fine, or other sanction, as well as the
19 required notice of the hearing under subsection 1 of this section by
20 mailing the same in writing to the licensee at the address contained in
21 the license. Except in the case of a summary suspension, a suspension
22 shall not be for a longer period than six months. If a license is
23 suspended or revoked, a part of the fees paid therefore shall not be
24 returned to the licensee. Any license or permit may be summarily
25 suspended by the issuing licensing authority without notice pending
26 any prosecution, investigation, or public hearing. Nothing in this
27 section shall prevent the summary suspension.

28 3. (1) Whenever a decision of the division or a local licensing
29 authority suspending a license for fourteen days or less becomes final,
30 the licensee may, before the operative date of the suspension, petition
31 for permission to pay a fine in lieu of having the license suspended for
32 all or part of the suspension period. Upon the receipt of the petition,
33 the division or local licensing authority may, in its sole discretion, stay
34 the proposed suspension and cause any investigation to be made which
35 it deems desirable and may, in its sole discretion, grant the petition if
36 the division or local licensing authority is satisfied that:

37 (a) The public welfare and morals shall not be impaired by
38 permitting the licensee to operate during the period set for suspension
39 and that the payment of the fine shall achieve the desired disciplinary
40 purposes;

41 (b) The books and records of the licensee are kept in such a
42 manner that the loss of sales that the licensee would have suffered had
43 the suspension gone into effect may be determined with reasonable
44 accuracy; and

45 (c) The licensee has not had his or her license suspended or
46 revoked, nor had any suspension stayed by payment of a fine, during
47 the two years immediately preceding the date of the motion or
48 complaint that resulted in a final decision to suspend the license or
49 permit.

50 (2) The fine accepted shall be not less than five hundred dollars
51 nor more than one hundred thousand dollars.

52 (3) Payment of a fine under the provisions of this subsection
53 shall be in the form of cash or in the form of a certified check or
54 cashier's check made payable to the division or local licensing
55 authority, whichever is appropriate.

56 4. Upon payment of the fine under subsection 3 of this section,
57 the division or local licensing authority shall enter its further order
58 permanently staying the imposition of the suspension. If the fine is
59 paid to a local licensing authority, the governing body of the authority
60 shall cause the moneys to be paid into the general fund of the local
61 licensing authority. Fines paid to the division under subsection 3 of
62 this section shall be transmitted to the state treasurer who shall credit
63 the same to the retail marijuana license cash fund created in section
64 195.1210.

65 5. In connection with a petition under subsection 3 of this
66 section, the authority of the division or local licensing authority is
67 limited to the granting of such stays as are necessary for the authority
68 to complete its investigation and make its findings and, if the authority
69 makes such findings, to the granting of an order permanently staying
70 the imposition of the entire suspension or that portion of the
71 suspension not otherwise conditionally stayed.

72 6. If the division or local licensing authority does not make the
73 findings required in subdivision (1) of subsection 3 of this section and

74 does not order the suspension permanently stayed, the suspension shall
75 go into effect on the operative date finally set by the division or local
76 licensing authority.

77 7. Each local licensing authority shall report all actions taken to
78 impose fines, suspensions, and revocations to the division in a manner
79 required by the division. No later than January fifteenth of each year,
80 the division shall compile a report of the preceding year's actions in
81 which fines, suspensions, or revocations were imposed by local
82 licensing authorities and by the division. The division shall file one
83 copy of the report with the chief clerk of the house of representatives,
84 one copy with the secretary of the senate, and six copies in the
85 legislative library.

195.1250. 1. Each licensee shall keep a complete set of all records
2 necessary to show fully the business transactions of the licensee, all of
3 which shall be open at all times during business hours for the
4 inspection and examination of the division or its duly authorized
5 representatives. The division may require any licensee to furnish such
6 information as it considers necessary for the proper administration of
7 this section and may require an audit to be made of the books of
8 account and records on such occasions as it may consider necessary by
9 an auditor to be selected by the division who shall likewise have access
10 to all books and records of the licensee, and the expense thereof shall
11 be paid by the licensee.

12 2. The licensed premises, including any places of storage where
13 retail marijuana is grown, stored, cultivated, sold, or dispensed, shall
14 be subject to inspection by the division or local licensing authorities
15 and their investigators, during all business hours and other times of
16 apparent activity, for the purpose of inspection or investigation. For
17 examination of any inventory or books and records required to be kept
18 by the licensees, access shall be required during business hours. Where
19 any part of the licensed premises consists of a locked area, upon
20 demand to the licensee, such area shall be made available for
21 inspection without delay, and, upon request by authorized
22 representatives of the division or local licensing authority, the licensee
23 shall open the area for inspection.

24 3. Each licensee shall retain all books and records necessary to
25 show fully the business transactions of the licensee for a period of the

26 current tax year and the three immediately prior tax years.

195.1260. 1. Except as otherwise provided in sections 195.1000 to
2 195.1280, it is unlawful for a person to:

3 (1) Consume retail marijuana or retail marijuana products in a
4 licensed retail marijuana establishment and, for a retail marijuana
5 licensee, to allow retail marijuana or retail marijuana products to be
6 consumed upon its licensed premises;

7 (2) Buy, sell, transfer, give away, or acquire retail marijuana or
8 retail marijuana products except as allowed under sections 195.1000 to
9 195.1280; or

10 (3) Have an unreported financial interest or a direct interest in
11 a license; except that this subdivision does not apply to banks or
12 savings and loan associations supervised and regulated by an agency
13 of the state or federal government, or to FHA-approved mortgagees, or
14 to stockholders, directors, or officers thereof.

15 2. It is unlawful for a licensee:

16 (1) To be within a limited-access area unless the person's license
17 badge is displayed;

18 (2) To fail to designate areas of ingress and egress for
19 limited-access areas and post signs in conspicuous locations as required
20 by sections 195.1000 to 195.1280;

21 (3) To fail to report a transfer of ownership; or

22 (4) To fail to report the name of or a change in managers.

23 3. It is unlawful for any person licensed to sell retail marijuana
24 or retail marijuana products:

25 (1) To display any signs that are inconsistent with local laws or
26 regulations;

27 (2) To use advertising material that is misleading, deceptive, or
28 false, or that is designed to appeal to minors;

29 (3) To provide public premises, or any portion thereof, for the
30 purpose of consumption of retail marijuana or retail marijuana
31 products in any form;

32 (4) To have in possession or upon the licensed premises any
33 marijuana, the sale of which is not permitted by the license;

34 (5) To sell or permit the sale of retail marijuana or retail
35 marijuana products to a person under twenty-one years of age;

36 (6) To sell more than a quarter of an ounce of retail marijuana

37 and no more than a quarter of an ounce equivalent of a retail
38 marijuana product during a single transaction to a nonresident of the
39 state;

40 (7) To have on the licensed premises any retail marijuana, retail
41 marijuana products, or marijuana paraphernalia that shows evidence
42 of the retail marijuana having been consumed or partially consumed;

43 (8) To distribute marijuana or marijuana products, with or
44 without remuneration, directly to another person using a mobile
45 distribution center;

46 (9) To abandon a licensed premises or otherwise cease operation
47 without notifying the state and local licensing authorities at least
48 forty-eight hours in advance and without accounting for and forfeiting
49 to the state licensing authority for destruction all marijuana or
50 products containing marijuana.

51 4. A person who commits any acts that are unlawful under
52 sections 195.1000 to 195.1280 or the rules authorized and adopted under
53 sections 195.1000 to 195.1280 is guilty of a class A misdemeanor.

54 5. A violation of this section by a licensee shall be grounds for
55 the immediate revocation of the license granted under sections 195.1000
56 to 195.1280.

57 6. Notwithstanding any provision of chapter 195 or 579 to the
58 contrary, a person who is twenty-one years of age or older may lawfully
59 possess up to one ounce of retail marijuana.

60 7. Notwithstanding any provision of chapter 195 or 579 to the
61 contrary, a person who is licensed under sections 195.1000 to 195.1280
62 may lawfully operate in accordance with the provisions of sections
63 195.1000 to 195.1280 and shall not be subject to criminal liability for the
64 manufacture, distribution, or possession of a controlled substance.

195.1270. (1) The division may summarily suspend a license
2 issued under sections 195.1000 to 195.1280 prior to a hearing in order
3 to immediately stop or restrict operations by a licensee to protect the
4 public health, safety, or welfare. The division may rescind or amend a
5 summary suspension.

6 (2) If, based upon inspection, affidavits, or other evidence, the
7 division determines that a licensee or the products prepared by a
8 licensee pose an immediate or serious threat to the public health,
9 safety, or welfare, the division may summarily suspend a license:

10 **(a) Requiring cessation or restriction of any or all licensee**
11 **operations and prohibiting the use of retail marijuana produced by**
12 **such licensee; or**

13 **(b) Placing restrictions on a licensee to the extent necessary to**
14 **avert a continued threat, pending final investigation results.**

15 **(3) The requirements of the summary suspension shall remain in**
16 **effect until the division rescinds or amends such requirements or until**
17 **such time as the division takes final action on any related pending**
18 **complaint and issues a final decision.**

195.1280. Any rule or portion of a rule, as that term is defined in
2 **section 536.010, that is created under the authority delegated in**
3 **sections 195.1000 to 195.1280 shall become effective only if it complies**
4 **with and is subject to all of the provisions of chapter 536 and, if**
5 **applicable, section 536.028. Sections 195.1000 to 195.1280 and chapter**
6 **536 are nonseverable and if any of the powers vested with the general**
7 **assembly pursuant to chapter 536 to review, to delay the effective date,**
8 **or to disapprove and annul a rule are subsequently held**
9 **unconstitutional, then the grant of rulemaking authority and any rule**
10 **proposed or adopted after August 28, 2016, shall be invalid and void.**

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