

SECOND REGULAR SESSION

SENATE BILL NO. 912

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAAF.

Read 1st time January 13, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5804S.011

AN ACT

To repeal sections 192.945, 195.207, 261.265, and 263.250, RSMo, and to enact in lieu thereof four new sections relating to medical marijuana, with penalty provisions.

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

Section A. Sections 192.945, 195.207, 261.265, and 263.250, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections
3 192.945, 195.207, 261.265, and 263.250, to read as follows:

192.945. 1. As used in this section, the following terms shall mean:

- 2 (1) "Department", the department of health and senior services;
- 3 (2) ["Hemp extract", as such term is defined in section 195.207;
- 4 (3) "Hemp extract registration card", a card issued by the department
5 under this section;
- 6 (4) "Intractable epilepsy", epilepsy that as determined by a neurologist
7 does not respond to three or more treatment options overseen by the neurologist;
- 8 (5) "Neurologist", a physician who is licensed under chapter 334 and board
9 certified in neurology;
- 10 (6)] **"Medical marijuana", marijuana as defined in section 195.010**
11 **intended for a medical use by a registrant;**
- 12 (3) **"Medical use", the acquisition, possession, use, or**
13 **transportation of medical marijuana by a registrant for use as part of**
14 **the treatment of the registrant's serious condition;**
- 15 (4) "Parent", a parent or legal guardian of a minor who is responsible for
16 the minor's medical care;
- 17 (5) **"Practitioner", a person who is a physician licensed by the**

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

18 **state board of registration for the healing arts and who has the primary**
19 **responsibility for the care and treatment of a person diagnosed with a**
20 **serious condition;**

21 [(7)] **(6) "Registrant", an individual to whom the department issues a**
22 **[hemp extract] registration card under this section;**

23 **(7) "Registration card", a card issued by the department under**
24 **this section;**

25 **(8) "Serious condition":**

26 **(a) Cancer, glaucoma, positive status for human**
27 **immunodeficiency virus or acquired immune deficiency syndrome,**
28 **hepatitis C, amyotrophic lateral sclerosis, Alzheimer's disease,**
29 **rheumatoid arthritis, fibromyalgia, severe migraines, Parkinson's**
30 **disease, multiple sclerosis, damage to the nervous tissue of the spinal**
31 **cord with objective neurological indication of intractable spasticity,**
32 **epilepsy, inflammatory bowel disease, neuropathies, Huntington's**
33 **disease; or**

34 **(b) Any of the following conditions that is clinically associated**
35 **with, or a complication of, a condition under this subdivision or its**
36 **treatment: cachexia or wasting syndrome; severe or chronic pain;**
37 **severe nausea; seizures; severe or persistent muscle spasms.**

38 2. The department shall issue a [hemp extract] registration card to an
39 individual who:

40 (1) Is eighteen years of age or older;

41 (2) Is a Missouri resident;

42 (3) Provides the department with a [statement] **certification** signed by
43 a [neurologist] **practitioner** that:

44 (a) Indicates that the individual suffers from [intractable epilepsy] a
45 **serious condition** and may benefit from treatment with [hemp extract]
46 **medical marijuana**; and

47 (b) Is consistent with a record from the [neurologist] **practitioner**
48 concerning the individual contained in the database described in subsection 9 of
49 this section;

50 (c) Indicates the practitioner by training or experience is
51 **qualified to treat the serious condition;**

52 (d) States that the individual is under the practitioner's
53 **continuing care for the serious condition; and**

54 **(e) Provides the form of medical marijuana the patient should**
55 **consume, including the method of consumption and any particular**
56 **strain, variety, quantity, or percentage of marijuana or active**
57 **ingredient and the appropriate dosage;**

58 (4) Pays the department a fee in an amount established by the
59 department under subsection 6 of this section; and

60 (5) Submits an application to the department on a form created by the
61 department that contains:

62 (a) The individual's name and address;

63 (b) A copy of the individual's valid photo identification; and

64 (c) Any other information the department considers necessary to
65 implement the provisions of this section.

66 3. The department shall issue a [hemp extract] registration card to a
67 parent who:

68 (1) Is eighteen years of age or older;

69 (2) Is a Missouri resident;

70 (3) Provides the department with a [statement] **certification** signed by
71 a [neurologist] **practitioner** that:

72 (a) Indicates that a minor in the parent's care suffers from [intractable
73 epilepsy] **a serious condition** and may benefit from treatment with [hemp
74 extract] **medical marijuana**; [and]

75 (b) Is consistent with a record from the [neurologist] **practitioner**
76 concerning the minor contained in the database described in subsection 9 of this
77 section;

78 **(c) The practitioner by training or experience is qualified to**
79 **treat the serious condition;**

80 **(d) The minor is under the practitioner's continuing care for the**
81 **serious condition; and**

82 **(e) Provides the form of medical marijuana the patient should**
83 **consume, including the method of consumption and any particular**
84 **strain, variety, quantity, or percentage of marijuana or active**
85 **ingredient and the appropriate dosage;**

86 (4) Pays the department a fee in an amount established by the
87 department under subsection 6 of this section; and

88 (5) Submits an application to the department on a form created by the
89 department that contains:

90 (a) The parent's name and address;
91 (b) The minor's name;
92 (c) A copy of the parent's valid photo identification; and
93 (d) Any other information the department considers necessary to
94 implement the provisions of this section.

95 4. The department shall maintain a record of the name of each registrant
96 and the name of each minor receiving care from a registrant.

97 5. The department **may promulgate rules to authorize clinical trials**
98 **involving medical marijuana and** shall promulgate rules to:

99 (1) Implement the provisions of this section including establishing the
100 information the applicant is required to provide to the department and
101 establishing in accordance with recommendations from the department of public
102 safety the form and content of the [hemp extract] registration card; and

103 (2) Regulate the distribution of [hemp extract] **medical marijuana** from
104 a [cannabidiol oil] **medical marijuana** care center to a registrant, which shall
105 be in addition to any other state or federal regulations; and

106 The department may promulgate rules to authorize clinical trials involving hemp
107 extract].

108 6. The department shall establish fees that are no greater than the
109 amount necessary to cover the cost the department incurs to implement the
110 provisions of this section.

111 7. The registration cards issued under this section shall be valid for one
112 year and renewable if at the time of renewal the registrant meets the
113 requirements of either subsection 2 or 3 of this section.

114 8. The [neurologist] **practitioner** who signs the [statement]
115 **certification** described in subsection 2 or 3 of this section shall:

116 (1) Keep a record of the [neurologist's] **practitioner's** evaluation and
117 observation of a patient who is a registrant or minor under a registrant's care
118 including the patient's response to [hemp extract] **medical marijuana**; and

119 (2) Transmit the record described in subdivision (1) of this subsection to
120 the department.

121 9. The department shall maintain a database of the records described in
122 subsection 8 of this section and treat the records as identifiable health data.

123 10. The department may share the records described in subsection 9 of
124 this section with a higher education institution for the purpose of studying [hemp
125 extract] **medical marijuana**.

11. Possession of or application for a registration card alone shall not constitute probable cause to search the person or property of the person possessing or applying for the card or otherwise subject the person or property of the person possessing the card to inspection by any governmental agency.

12. The department shall maintain a confidential list of registrants. Individual names on the list shall be confidential and not subject to disclosure, except to:

(1) Authorized employees of the department as necessary to perform official duties of the department; or

(2) Authorized employees of state or local law enforcement agencies, only for the purpose of verifying that a person who is engaged in the suspected or alleged medical use of marijuana is lawfully in possession of a registration card.

13. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after July 14, 2014, shall be invalid and void.

195.207. 1. [As used in sections 192.945, 261.265, 261.267, and this section, the term "hemp extract" shall mean an extract from a cannabis plant or a mixture or preparation containing cannabis plant material that:

(1) Is composed of no more than three-tenths percent tetrahydrocannabinol by weight;

(2) Is composed of at least five percent cannabidiol by weight; and

(3) Contains no other psychoactive substance.

2.] Notwithstanding any other provision of this chapter **or chapter 579 to the contrary**, an individual who has been issued a valid [hemp extract] registration card under section 192.945, or is a minor under a registrant's care, and possesses or uses [hemp extract] **medical marijuana as the term "medical marijuana" is defined under section 192.945** is not subject to the penalties described in this chapter **or chapter 579** for possession or use of the

14 [hemp extract] **medical marijuana** if the individual:

15 (1) Possesses or uses the [hemp extract] **medical marijuana** only to
16 treat [intractable epilepsy] **a serious condition** as defined in section 192.945;

17 (2) Originally obtained the [hemp extract] **medical marijuana** from a
18 sealed container with a label indicating the [hemp extract's] **medical**
19 **marijuana's** place of origin and a number that corresponds with a certificate of
20 analysis;

21 (3) Possesses, in close proximity to the [hemp extract] **medical**
22 **marijuana**, a certificate of analysis that:

23 (a) Has a number that corresponds with the number on the label described
24 in subdivision (2) of this subsection;

25 (b) Indicates the [hemp extract's] **medical marijuana's** ingredients
26 including its percentages of tetrahydrocannabinol and cannabidiol by weight;

27 (c) Is created by a laboratory that is not affiliated with the producer of the
28 [hemp extract] **medical marijuana** and is licensed in the state where the [hemp
29 extract] **medical marijuana** was produced; and

30 (d) Is transmitted by the laboratory to the department of health and
31 senior services; [and]

32 (4) Has a current [hemp extract] registration card issued by the
33 department of health and senior services under section 192.945;

34 **(5) Possesses a form of medical marijuana that is in compliance**
35 **with any recommendation or limitation by the practitioner as stated in**
36 **the certification provided to the department.**

37 [3.] **2.** Notwithstanding any other provision of this chapter, an individual
38 who possesses [hemp extract] **medical marijuana** lawfully under subsection [2]
39 **1** of this section and administers [hemp extract] **medical marijuana** to a minor
40 suffering from [intractable epilepsy] **a serious condition** is not subject to the
41 penalties described in this chapter for administering the [hemp extract] **medical**
42 **marijuana** to the minor if:

43 (1) The individual is the minor's parent or legal guardian; and

44 (2) The individual is registered with the department of health and senior
45 services as the minor's parent under section 192.945.

46 [4.] **3.** An individual who has [been issued] a valid [hemp extract]
47 registration card under section 192.945, or is a minor under a registrant's care,
48 may possess up to [twenty ounces of hemp extract pursuant to this
49 section. Subject to any rules or regulations promulgated by the department of

50 health and senior services, an individual may apply for a waiver if a physician
51 provides a substantial medical basis in a signed, written statement asserting
52 that, based on the patient's medical history, in the physician's professional
53 judgment, twenty ounces is an insufficient amount to properly alleviate the
54 patient's medical condition or symptoms associated with such medical condition]
55 **a thirty day supply of the dosage as determined by the practitioner,**
56 **consistent with any regulations promulgated by the department of**
57 **health and senior services. During the last seven days of the thirty day**
58 **period, the individual may also possess an amount equal to a thirty day**
59 **supply of the dosage for the following month. Medical marijuana in an**
60 **amount that does exceed a thirty day supply shall not be seized from**
61 **the individual if he or she presents a registration card. Any such**
62 **property interest shall not be forfeited under any provision of state or**
63 **local law providing for the forfeiture of property other than as a**
64 **sentence imposed after a finding of guilty for a criminal**
65 **offense. Medical marijuana, paraphernalia, or other property seized**
66 **from a registrant in connection with the claimed medical use of**
67 **marijuana shall be returned immediately upon the determination by a**
68 **court or prosecutor that the registrant is entitled to the protections of**
69 **this section, as may be evidenced by a decision not to prosecute, the**
70 **dismissal of charges, or an acquittal.**

71 **4. Any property interest that is possessed, owned, or used in**
72 **connection with the medical use of marijuana, or acts incidental to**
73 **such use shall not be harmed, neglected, injured, or destroyed while in**
74 **the possession of state or local law enforcement officials.**

75 **5. No person shall be subject to arrest or prosecution for**
76 **constructive possession, conspiracy, or any other offense for simply**
77 **being in the presence or vicinity of the medical use of marijuana as**
78 **permitted under this section and section 192.945.**

79 **6. Any registrant shall be afforded all the same rights under the**
80 **law as any other pharmaceutically medicated individual, as it pertains**
81 **to:**

82 **(1) Routine traffic stops as well as any interaction with law**
83 **enforcement that does not involve an illegal act;**

84 **(2) Any interaction with a person's employer that pertains solely**
85 **to legal medical use of marijuana; or**

86 **(3) Exoneration from drug testing when such test pertains to**

87 **cannabinoids and their metabolites whether by an employer or a**
88 **member of a law enforcement agency.**

89 **7. The authorization for the medical use of marijuana provided**
90 **under this section and section 192.945 shall not apply to the use of**
91 **marijuana by a registrant or any other person for purposes other than**
92 **medical use.**

93 **8. Notwithstanding any law to the contrary, fraudulent**
94 **representation to a law enforcement official of any fact or circumstance**
95 **relating to the medical use of marijuana to avoid arrest or prosecution**
96 **shall be a class D misdemeanor. Such penalty shall be in addition to**
97 **any other penalties that may apply to the nonmedical use of marijuana.**

261.265. 1. For purposes of this section, the following terms shall mean:

2 (1) ["Cannabidiol oil care center", the premises specified in an application
3 for a cultivation and production facility license in which the licensee is authorized
4 to distribute processed hemp extract to persons possessing a hemp extract
5 registration card issued under section 192.945;

6 (2) "Cultivation and production facility", the land and premises specified
7 in an application for a cultivation and production facility license on which the
8 licensee is authorized to grow, cultivate, process, and possess [hemp and hemp
9 extract] **medical marijuana**;

10 [(3)] (2) "Cultivation and production facility license", a license that
11 authorizes the licensee to grow, cultivate, process, and possess [hemp and hemp
12 extract] **medical marijuana**, and distribute [hemp extract] **medical**
13 **marijuana** to its [cannabidiol oil] **medical marijuana** care centers;

14 [(4)] (3) "Department", the department of agriculture;

15 [(5)] (4) "Grower", a nonprofit entity issued a cultivation and production
16 facility license by the department of agriculture that produces [hemp extract]
17 **medical marijuana** for the treatment of [intractable epilepsy] **serious**
18 **conditions as the term "serious conditions" is defined under section**
19 **192.945**;

20 [(6)] "Hemp":

21 (a) All nonseed parts and varieties of the *cannabis sativa* plant, whether
22 growing or not, that contain a crop-wide average tetrahydrocannabinol (THC)
23 concentration that does not exceed the lesser of:

24 a. Three-tenths of one percent on a dry weight basis; or

25 b. The percent based on a dry weight basis determined by the federal

26 Controlled Substances Act under 21 U.S.C. Section 801, et seq.;

27 (b) Any *cannabis sativa* seed that is:

28 a. Part of a growing crop;

29 b. Retained by a grower for future planting; or

30 c. For processing into or use as agricultural hemp seed.

31 This term shall not include industrial hemp commodities or products;

32 (7) "Hemp]

33 **(5) "Medical marijuana", shall have the same meaning as provided**
34 **under section 192.945;**

35 **(6) "Medical marijuana care center", the premises specified in an**
36 **application for a cultivation and production facility license in which**
37 **the licensee is authorized to distribute processed medical marijuana to**
38 **persons possessing a registration card issued under section 192.945;**

39 **(7) "Medical marijuana monitoring system", an electronic tracking**
40 **system that includes, but is not limited to, testing and data collection established**
41 **and maintained by the cultivation and production facility and is available to the**
42 **department for the purposes of documenting the [hemp extract] medical**
43 **marijuana production and retail sale of the [hemp extract] medical**
44 **marijuana.**

45 2. The department shall issue a cultivation and production facility license
46 to a nonprofit entity to grow or cultivate the cannabis plant used to make [hemp
47 extract as defined in subsection 1 of section 195.207 or hemp] **medical**
48 **marijuana** on the entity's property if the entity has submitted to the department
49 an application as required by the department under subsection 7 of this section,
50 the entity meets all requirements of this section and the department's rules, and
51 there are fewer than two licensed cultivation and production facilities operating
52 in the state.

53 3. A grower may produce, **distribute**, and manufacture [hemp and hemp
54 extract, and distribute hemp extract as defined in section 195.207] **medical**
55 **marijuana** for the treatment of persons suffering from [intractable epilepsy as
56 defined in section 192.945] **a serious condition as the term "serious**
57 **condition" is defined under section 192.945**, consistent with any and all
58 state or federal regulations regarding the production, manufacture, or
59 distribution of such product. The department shall not issue more than two
60 cultivation and production facility licenses for the operation of such facilities at
61 any one time.

62 4. The department shall maintain a list of growers.

63 5. All growers shall keep records in accordance with rules adopted by the
64 department. Upon at least three days' notice, the director of the department may
65 audit the required records during normal business hours. The director may
66 conduct an audit for the purpose of ensuring compliance with this section.

67 6. In addition to an audit conducted in accordance with subsection 5 of
68 this section, the director may inspect independently, or in cooperation with the
69 state highway patrol or a local law enforcement agency, any [hemp] **marijuana**
70 crop during the crop's growth phase and take a representative composite sample
71 for field analysis. [If a crop contains an average tetrahydrocannabinol (THC)
72 concentration exceeding the lesser of:

73 (1) Three-tenths of one percent on a dry weight basis; or

74 (2) The percent based on a dry weight basis determined by the federal
75 Controlled Substances Act under 21 U.S.C. Section 801, et seq.,
76 the director may detain, seize, or embargo the crop.]

77 7. The department shall promulgate rules including, but not limited to:

78 (1) Application requirements for licensing, including requirements for the
79 submission of fingerprints and the completion of a criminal background check;

80 (2) Security requirements for cultivation and production facility premises,
81 including, at a minimum, lighting, physical security, video and alarm
82 requirements;

83 (3) Rules relating to [hemp] **medical marijuana** monitoring systems as
84 defined in this section;

85 (4) Other procedures for internal control as deemed necessary by the
86 department to properly administer and enforce the provisions of this section,
87 including reporting requirements for changes, alterations, or modifications of the
88 premises;

89 (5) Requirements that any [hemp extract] **medical marijuana** received
90 from a legal source be submitted to a testing facility designated by the
91 department to ensure that such [hemp extract] **medical marijuana** complies
92 with the provisions of **this** section [195.207] and to ensure that the [hemp
93 extract] **medical marijuana** does not contain any pesticides. Any [hemp
94 extract] **medical marijuana** that is not submitted for testing or which after
95 testing is found not to comply with the provisions of **this** section [195.207] shall
96 not be distributed or used and shall be submitted to the department for
97 destruction; and

98 (6) Rules regarding the manufacture, storage, and transportation of [hemp
99 and hemp extract] **medical marijuana**, which shall be in addition to any other
100 state or federal regulations.

101 8. **A grower shall not:**

102 (1) **Obtain marijuana from outside the state in violation of**
103 **federal law;**

104 (2) **Employ or utilize the services of any person who has a felony**
105 **finding of guilt involving a controlled substance; or**

106 (3) **Sell, administer, deliver, dispense, or distribute any medical**
107 **marijuana to a registrant without first verifying the validity of the**
108 **registration card by contacting the department of health and senior**
109 **services.**

110 9. **Any processing of marijuana outside a grower's facility shall**
111 **be subject to any law prohibiting the possession or manufacture of a**
112 **controlled substance under chapter 195 or 579.**

113 10. **In addition to any labeling requirements provided under**
114 **chapter 195 or 579, the grower shall clearly label any product that is**
115 **sold, administered, delivered, dispensed, or distributed to indicate that**
116 **the product contains marijuana unless it is not possible to label the**
117 **product itself because of the nature of the form of the product.**

118 11. Any rule or portion of a rule, as that term is defined in section
119 536.010, that is created under the authority delegated in this section shall
120 become effective only if it complies with and is subject to all of the provisions of
121 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
122 nonseverable, and if any of the powers vested with the general assembly under
123 chapter 536 to review, to delay the effective date, or to disapprove and annul a
124 rule are subsequently held unconstitutional, then the grant of rulemaking
125 authority and any rule proposed or adopted after July 14, 2014, **shall be invalid**
126 **and void.**

127 [9.] 12. All [hemp] waste from the production of [hemp extract] **medical**
128 **marijuana** shall either be destroyed, recycled by the licensee at the [hemp]
129 **medical marijuana** cultivation and production facility, or donated to the
130 department or an institution of higher education for research purposes, and shall
131 not be used for commercial purposes.

132 [10.] 13. In addition to any other liability or penalty provided by law, the
133 director may revoke or refuse to issue or renew a cultivation and production

134 facility license and may impose a civil penalty on a grower for any violation of
135 this section, or section 192.945 or 195.207. The director may not impose a civil
136 penalty under this section that exceeds two thousand five hundred dollars.

263.250. 1. **Except as provided in sections 192.945, 195.207, and**
2 **261.265**, the plant "marijuana", botanically known as cannabis sativa, is hereby
3 declared to be a noxious weed and all owners and occupiers of land shall destroy
4 all such plants growing upon their land. Any person who knowingly allows such
5 plants to grow on his land or refuses to destroy such plants after being notified
6 to do so shall allow any sheriff or such other persons as designated by the county
7 commission to enter upon any land in this state and destroy such plants.

8 2. Entry to such lands shall not be made, by any sheriff or other
9 designated person to destroy such plants, until fifteen days' notice by certified
10 mail shall be given the owner or occupant to destroy such plants or a search
11 warrant shall be issued on probable cause shown. In all such instances, the
12 county commission shall bear the cost of destruction and notification.

✓
Bill

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