

SECOND REGULAR SESSION

SENATE JOINT RESOLUTION NO. 29

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOLSMAN.

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

ADRIANE D. CROUSE, Secretary.

5003S.011

JOINT RESOLUTION

Submitting to the qualified voters of Missouri, an amendment to article 1 of the Constitution of Missouri, by adding thereto one new section relating to a right to access medical marijuana.

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

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2016, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article 1 of the Constitution of the state of Missouri:

Section A. Article 1, Constitution of Missouri, is amended by adding thereto one new section, to be known as section 37, to read as follows:

Section 37. 1. For purposes of this section, the following terms mean:

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

(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;

(b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;

(c) Application of ointments or balms;

(d) Transdermal patches and suppositories;

(e) Consuming marijuana-infused food products; or

(f) Any other method recommended by a qualifying patient's physician;

(2) "Department", the department of health and senior services or its successor agency;

16 (3) "Entity", a natural person, corporation, professional
17 corporation, nonprofit corporation, cooperative corporation,
18 unincorporated association, business trust, limited liability company,
19 general or limited partnership, limited liability partnership, joint
20 venture, or any other entity;

21 (4) "Flowering plant", a marijuana plant from the time it exhibits
22 the first signs of sexual maturity through harvest;

23 (5) "Marijuana", *Cannabis indica*, *Cannabis sativa*, and *Cannabis*
24 *ruderalis*, hybrids of such species, and any other strains commonly
25 understood within the scientific community to constitute marijuana, as
26 well as resin extracted from the plant and marijuana-infused
27 products. "Marijuana" does not include industrial hemp containing a
28 crop-wide average tetrahydrocannabinol concentration that does not
29 exceed three-tenths of one percent on a dry weight basis, or
30 commodities or products manufactured from industrial hemp;

31 (6) "Marijuana-infused products", products that are infused with
32 marijuana or an extract thereof and are intended for use or
33 consumption other than by smoking, including but not limited to edible
34 products, ointments, and tinctures;

35 (7) "Medical marijuana cultivation facility", a facility licensed by
36 the department to acquire, cultivate, process, transport, and sell
37 marijuana to a medical marijuana dispensary facility or to a medical
38 marijuana-infused products manufacturing facility;

39 (8) "Medical marijuana dispensary facility", a facility licensed by
40 the department to acquire, sell, transport, and deliver marijuana,
41 marijuana-infused products, and drug paraphernalia used to administer
42 marijuana as provided for in this section;

43 (9) "Medical marijuana-infused products manufacturing facility",
44 a facility licensed by the department to acquire, manufacture,
45 transport, and sell marijuana-infused products to a medical marijuana
46 dispensary facility;

47 (10) "Medical use", the production, possession, delivery,
48 distribution, transportation, or administration of marijuana or a
49 marijuana-infused product, or drug paraphernalia used to administer
50 marijuana or a marijuana-infused product, for the benefit of a
51 qualifying patient to mitigate the symptoms or effects of the patient's
52 qualifying medical condition;

53 (11) "Physician", an individual who is licensed and in good
54 standing to practice medicine or osteopathy under Missouri law;

55 (12) "Physician certification", a document, whether handwritten,
56 electronic, or in another commonly used format, signed by a physician,
57 which states that, in the physician's professional opinion, the patient
58 suffers from a qualifying medical condition and is likely to receive
59 therapeutic or palliative benefit from the medical use of marijuana to
60 treat or alleviate the patient's qualifying medical condition or
61 symptoms associated with the qualifying medical condition;

62 (13) "Primary caregiver", an individual twenty-one years of age
63 or older who has significant responsibility for managing the well-being
64 of a qualifying patient and who is designated as such on the primary
65 caregiver's application for an identification card under this section or
66 in other written notification to the department;

67 (14) "Qualifying medical condition", the condition of, symptoms
68 related to, or side-effects from the treatment of:

69 (a) Cancer;

70 (b) Epilepsy;

71 (c) Glaucoma;

72 (d) Intractable migraines unresponsive to other treatments;

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

77 (f) Debilitating psychiatric disorders, including but not limited
78 to post-traumatic stress disorder, if diagnosed by a state licensed
79 psychiatrist;

80 (g) Human immunodeficiency virus or acquired immune
81 deficiency syndrom;

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

87 (i) Any terminal illness; or

88 (j) In the professional judgment of a physician, any other
89 chronic, debilitating, or otherwise equivalent condition, including but

90 not limited to hepatitis C, amyotrophic lateral sclerosis, inflammatory
91 bowel disease, agitation of Alzheimer's disease, cachexia, and wasting
92 syndrome;

93 (15) "Qualifying patient", a Missouri resident diagnosed with at
94 least one qualifying medical condition.

95 2. (1) In carrying out the implementation of this section, the
96 department shall have the authority to:

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

103 (b) Promulgate rules and emergency rules necessary for the
104 proper regulation and control of the cultivation, manufacture,
105 distribution, and sale of marijuana for medical use and for the
106 enforcement of this section;

107 (c) Develop such forms, licenses, identification cards, and
108 applications as are necessary or convenient in the discretion of the
109 department for the administration of this section or any of the rules
110 promulgated under this section;

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

123 (e) Prepare and transmit annually a publicly available report
124 accounting to the governor for the efficient discharge of all
125 responsibilities assigned to the department under this section.

126 (2) The department may issue any rules or emergency rules

127 necessary for the implementation and enforcement of this section and
128 to ensure the right to, availability of, and safe use of marijuana for
129 medical use by qualifying patients. In developing such rules or
130 emergency rules, the department may consult with other public
131 agencies. In addition to any other rules or emergency rules necessary
132 to carry out the mandates of this section, the department may issue
133 rules or emergency rules relating to the following subjects:

134 (a) Compliance with, enforcement of, or violation of any
135 provision of this section or any rule issued under this section,
136 including procedures and grounds for denying, suspending, fining,
137 restricting, or revoking a state license issued under this section;

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

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

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

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

147 (f) Prohibition of misrepresentation and unfair practices;

148 (g) Control of informational and product displays on licensed
149 premises;

150 (h) Development of individual identification cards for owners,
151 officers, managers, contractors, employees, and other support staff of
152 entities licensed under this section, including a fingerprint-based
153 federal and state criminal record check in accordance with U.S. Public
154 Law 92-544, or its successor provisions, as may be required by the
155 department prior to issuing a card and procedures to ensure that cards
156 for new applicants are issued within fourteen days;

157 (i) Security requirements for any premises licensed under this
158 section, including, at a minimum, lighting, physical security, video,
159 alarm requirements, and other minimum procedures for internal
160 control as deemed necessary by the department to properly administer
161 and enforce the provisions of this section, including reporting
162 requirements for changes, alterations, or modifications to the premises;

163 (j) Regulation of the storage of, warehouses for, and

164 transportation of marijuana for medical use;

165 (k) Sanitary requirements, including but not limited to sanitary
166 requirements for the preparation of medical marijuana-infused
167 products;

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

171 (m) Labeling and packaging standards;

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

174 (o) State licensing procedures, including procedures for
175 renewals, reinstatements, initial licenses, and the payment of licensing
176 fees;

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

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

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

183 (3) The department shall issue rules or emergency rules for a
184 medical marijuana and medical marijuana-infused products
185 independent testing and certification program for medical marijuana
186 licenses. The rules shall require licensees to test medical marijuana
187 using an impartial, independent laboratory to ensure, at a minimum,
188 that products sold for human consumption do not contain contaminants
189 that are injurious to health and to ensure correct labeling.

190 (4) The department shall maintain the confidentiality of reports
191 or other information obtained from an applicant or licensee containing
192 any individual data, information, patient information, or records
193 related to the licensee or its operation, including sales information,
194 financial records, tax returns, credit reports, cultivation information,
195 testing results, and security information and plans, or any other
196 records that are exempt from public inspection under state or federal
197 law. Such reports or other information may be used only for a purpose
198 authorized by this section. Any information released related to
199 patients may be used only for a purpose authorized by federal law and
200 this section, including verifying that a person who presented a patient

201 identification card to a state or local law enforcement official is
202 lawfully in possession of such card.

203 (5) Within ninety days of the effective date of this section, the
204 department shall make available to the public license application forms
205 and application instructions for medical marijuana cultivation
206 facilities, medical marijuana dispensary facilities, and medical
207 marijuana-infused products manufacturing facilities.

208 (6) Within ninety days of the effective date of this section, the
209 department shall make available to the public application forms and
210 application instructions for qualifying patient, qualifying patient
211 cultivation, and primary caregiver identification cards. Within one
212 hundred fifty days of the effective date of this section, the department
213 shall begin accepting applications for such identification cards.

214 (7) An entity may apply to the department for and obtain a
215 license to grow marijuana as a medical marijuana cultivation
216 facility. Each facility in operation shall require a separate
217 license. Each indoor facility utilizing artificial lighting may be limited
218 by the department to thirty thousand square feet of flowering plant
219 canopy space. Each outdoor facility utilizing natural lighting may be
220 limited by the department to two thousand eight hundred flowering
221 plants. Each greenhouse facility using a combination of natural and
222 artificial lighting may be limited by the department, at the election of
223 the licensee, to two thousand eight hundred flowering plants or thirty
224 thousand square feet of flowering plant canopy space. The license shall
225 be valid for three years from its date of issuance and shall be
226 renewable, except for good cause. The department shall charge each
227 applicant a nonrefundable fee of three thousand dollars per license
228 application or renewal. Once granted, the department shall charge
229 each licensee an annual fee of twenty thousand dollars per facility
230 license. Application and license fees shall be increased or decreased
231 each year by the percentage of increase or decrease from the end of the
232 previous calendar year of the Consumer Price Index, or successor index
233 as published by the U.S. Department of Labor, or its successor agency.
234 No more than three medical marijuana cultivation facility licenses shall
235 be issued to any entity under substantially common control, ownership,
236 or management.

237 (8) An entity may apply to the department for and obtain a

238 license to operate a medical marijuana dispensary facility. Each
239 facility in operation shall require a separate license. A license shall be
240 valid for three years from its date of issuance and shall be renewable,
241 except for good cause. The department shall charge each applicant a
242 nonrefundable fee of three thousand dollars per license application or
243 renewal. Once granted, the department shall charge each licensee an
244 annual fee of ten thousand dollars per facility license. Application and
245 license fees shall be increased or decreased each year by the
246 percentage of increase or decrease from the end of the previous
247 calendar year of the Consumer Price Index, or successor index as
248 published by the U.S. Department of Labor, or its successor agency. No
249 more than six medical marijuana dispensary facility licenses shall be
250 issued to any entity under substantially common control, ownership, or
251 management.

252 (9) An entity may apply to the department for and obtain one or
253 more licenses to operate a medical marijuana-infused products
254 manufacturing facility. Each facility in operation shall require a
255 separate license. A license shall be valid for three years from its date
256 of issuance and shall be renewable, except for good cause. The
257 department shall charge each applicant a nonrefundable fee of three
258 thousand dollars per license application or renewal. Once granted, the
259 department shall charge each licensee an annual fee of ten thousand
260 dollars per facility license. Application license fees shall be increased
261 or decreased each year by the percentage of increase or decrease from
262 the end of the previous calendar year of the Consumer Price Index, or
263 successor index as published by the U.S. Department of Labor, or its
264 successor agency. No more than five medical marijuana-infused
265 products manufacturing facility licenses shall be issued to any entity
266 under substantially common control, ownership, or management.

267 (10) Except for good cause, a qualifying patient or his or her
268 primary caregiver may obtain an identification card from the
269 department to cultivate up to six flowering marijuana plants for the
270 exclusive use of that qualifying patient. The card shall be valid for
271 twelve months from its date of issuance and shall be renewable with
272 the annual submittal of a new or updated physician's certification. The
273 department shall charge an annual fee for the card of one hundred
274 dollars, with such rate to be increased or decreased each year by the

275 percentage of increase or decrease from the end of the previous
276 calendar year of the Consumer Price Index, or successor index as
277 published by the U.S. Department of Labor, or its successor agency.

278 (11) The department may set a limit on the amount of marijuana
279 that may be purchased by or on behalf of a single qualifying patient in
280 a thirty day period, provided that limit is not less than six ounces of
281 dried, unprocessed marijuana, or its equivalent. Any such limit shall
282 not apply to a qualifying patient with written certification from two
283 independent physicians that there are compelling reasons why the
284 qualifying patient needs a greater amount than the limit established by
285 the department.

286 (12) The department may set a limit on the amount of marijuana
287 that may be possessed by or on behalf of each qualifying patient,
288 provided that limit is not less than a sixty day supply of dried,
289 unprocessed marijuana, or its equivalent. A primary caregiver may
290 possess a separate legal limit for each qualifying patient under his or
291 her care and a separate legal limit for himself or herself if the
292 caregiver is a qualifying patient. Qualifying patients cultivating
293 marijuana for medical use may possess up to a ninety day supply, so
294 long as the supply remains on property under their control. Any such
295 limit shall not apply to a qualifying patient with written certification
296 from two independent physicians that there are compelling reasons for
297 additional amounts. Possession of more than the legal limit and up to
298 twice the legal limit shall subject the possessor to department
299 sanctions, including an administrative penalty and loss of the
300 possessor's patient identification card for up to one year. Purposefully
301 possessing amounts in excess of twice the legal limit shall be
302 punishable by imprisonment of up to one year and a fine of up to two
303 thousand dollars.

304 (13) The department may restrict the aggregate number of
305 licenses granted for medical marijuana cultivation facilities, provided,
306 however, that the number may not be limited to fewer than one license
307 per every eighty thousand inhabitants, or any portion thereof, of the
308 state of Missouri, according to the most recent census of the United
309 States. In any year, if the number of qualifying applicants and any
310 renewals exceed such a restriction, the department shall, after
311 renewing all qualifying licenses, rank new applicants using the

312 following factors: site security; capacity or experience with agriculture,
313 horticulture, health care, or a legal cannabis market; acceptance in the
314 site community; potential for positive economic impact in the site
315 community; and maintaining competitiveness in the marijuana for
316 medical use marketplace. In ranking applicants and awarding licenses,
317 the department may consult or contract with other public agencies with
318 relevant expertise regarding these factors. The department shall lift or
319 ease any limit on the number of medical marijuana cultivation facilities
320 to meet the demand for medical marijuana by qualifying patients.

321 (14) The department may restrict the aggregate number of
322 licenses granted for marijuana-infused products manufacturing
323 facilities, provided, however, that the number may not be limited to
324 fewer than one license per every fifty thousand inhabitants, or any
325 portion thereof, of the state of Missouri, according to the most recent
326 census of the United States. In any year, if the number of qualifying
327 applicants and any renewals exceed such a restriction, the department
328 shall, after renewing all qualifying licenses, rank new applicants using
329 the following factors: site security; experience or capacity with health
330 care or a legal cannabis market; acceptance in the site community;
331 potential for positive economic impact in the site community; and
332 maintaining competitiveness in the marijuana for medical use
333 marketplace. In ranking applicants and awarding licenses, the
334 department may consult or contract with other public agencies with
335 relevant expertise regarding these factors.

336 (15) If a county has restricted the number of licenses for medical
337 marijuana dispensary facilities, then, in any year that the number of
338 qualifying applicants and any renewals exceed such restriction, the
339 department shall, after renewing all qualifying licenses, rank new
340 applicants using the following factors: site security; experience or
341 capacity with health care or a legal cannabis market; acceptance in the
342 site community; potential for positive economic impact in the site
343 community; and maintaining competitiveness in the marijuana for
344 medical use marketplace. In ranking applicants and awarding licenses,
345 the department may consult or contract with other public agencies with
346 relevant expertise regarding these factors.

347 (16) The department shall begin accepting license applications
348 for medical marijuana dispensary facilities, medical marijuana

349 cultivation facilities, and medical marijuana-infused products
350 manufacturing facilities no later than one hundred fifty days after the
351 effective date of this section. Applications for licenses under this
352 section shall be approved or denied by the department no later than
353 one hundred fifty days after their submission. If the department fails
354 to carry out its nondiscretionary duty to approve or deny an
355 application within one hundred fifty days of submission, an applicant
356 may immediately seek a court order compelling the department to
357 approve or deny the application.

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

377 (18) Primary caregivers under this section shall obtain and
378 annually renew an identification card from the department. The
379 department shall charge a fee of twenty-five dollars per year, with such
380 fee to be increased or decreased each year by the percentage of
381 increase or decrease from the end of the previous calendar year of the
382 Consumer Price Index, or successor index as published by the U.S.
383 Department of Labor, or its successor agency. Upon receiving an
384 application for a primary caregiver identification card, the department
385 shall, within thirty days, either issue the card or provide a written

386 explanation for its denial.

387 (19) All marijuana for medical use sold in Missouri shall be
388 cultivated in a licensed medical marijuana cultivation facility located
389 in Missouri.

390 (20) All marijuana-infused products for medical use sold in the
391 state of Missouri shall be manufactured in a medical marijuana-infused
392 products manufacturing facility.

393 (21) The denial of a license, license renewal, or identification
394 card by the department shall be appealable to the administrative
395 hearing commission, or its successor entity. Following the exhaustion
396 of administrative review, denial of a license, license renewal, or
397 identification card by the department shall be subject to judicial review
398 as provided by law.

399 (22) No elected official shall interfere directly or indirectly with
400 the department's obligations and activities under this section.

401 3. (1) A tax is levied upon the retail sale of marijuana for
402 medical use sold at medical marijuana dispensary facilities within the
403 state. The tax shall be at a rate of four percent of the retail price. The
404 tax shall be collected by each licensed medical marijuana dispensary
405 facility and paid to the department of revenue. After retaining no more
406 than five percent for its actual collection costs, amounts generated by
407 the tax levied in this section shall be deposited by the department of
408 revenue into the Missouri Veterans' Health and Care Fund. Licensed
409 entities making retail sales within the state shall be allowed approved
410 credit for returns provided the tax was paid on the returned item and
411 the purchaser was given the refund or credit.

412 (2) There is hereby created in the state treasury the "Missouri
413 Veterans' Health and Care Fund" which shall consist of taxes and fees
414 collected under this section. The state treasurer shall be custodian of
415 the fund, and he or she shall invest moneys in the fund in the same
416 manner as other funds are invested. Any interest and moneys earned
417 on such investments shall be credited to the fund. Notwithstanding any
418 other provision of law to the contrary, any moneys remaining in the
419 fund at the end of a biennium shall not revert to the credit of the
420 general revenue fund. The commissioner of administration is
421 authorized to make cash operating transfers to the fund for purposes
422 of meeting the cash requirements of the department in advance of it

423 receiving annual application, licensing, and tax revenue, with any such
424 transfers to be repaid as provided by law. The fund shall be a
425 dedicated fund and shall stand appropriated without further legislative
426 action as follows:

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

433 (b) Next, the remainder of such funds shall be transferred to the
434 Missouri veterans commission for health and care services for military
435 veterans, including the following purposes: operations, maintenance
436 and capital improvements of the Missouri Veteran's Homes, the
437 Missouri Service Officer's Program, and other services for veterans
438 approved by the commission, including but not limited to health care
439 services, mental health services, drug rehabilitation services, housing
440 assistance, job training, tuition assistance, and housing assistance to
441 prevent homelessness. The Missouri veterans commission shall
442 contract with other public agencies for the delivery of services beyond
443 its expertise.

444 (3) For all retail sales of marijuana for medical use, a record
445 shall be kept by the seller which identifies by secure and encrypted
446 patient number issued by the seller to the qualifying patient involved
447 in the sale, all amounts and types of marijuana involved in the sale and
448 the total amount of money involved in the sale, all amounts and types
449 of marijuana involved in the sale and the total amount of money
450 involved in the sale, including itemizations, taxes collected, and grand
451 total sale amounts. All such records shall be kept on the premises in a
452 readily available format and be made available for review by the
453 department and the department of revenue upon request. Such records
454 shall be retained for five years from the date of the sale.

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

459 (5) Except as authorized in this subsection, no additional taxes

460 shall be imposed on the sale of marijuana for medical use.

461 4. (1) Except as provided in this section, the possession of
462 marijuana in quantities less than the limits of this section or
463 established by the department and transportation of marijuana from a
464 medical marijuana dispensary facility to the qualifying patient
465 residence shall not subject the possessor to arrest, criminal or civil
466 liability, or sanctions under Missouri law, provided that the possessor
467 produces on demand to the appropriate authority a valid qualifying
468 patient identification card; a valid patient cultivation identification
469 card; a valid physician certification while making application for an
470 identification card; or a valid primary caregiver identification
471 card. Production of the respective equivalent identification card or
472 authorization issued by another state or political subdivision of
473 another state shall also meet the requirements of this subdivision.

474 (2) No patient shall be denied access to or priority for an organ
475 transplant because the patient holds a qualifying patient identification
476 card or uses marijuana for medical use.

477 (3) A physician shall not be subject to criminal or civil liability
478 or sanctions under Missouri law or discipline by the Missouri State
479 Board of Registration for the Healing Arts, or its successor agency, for
480 issuing a physician certification to a patient diagnosed with a
481 qualifying medical condition in a manner consistent with this section
482 and legal standards of professional conduct.

483 (4) A health care provider shall not be subject to civil or criminal
484 prosecution, denial of any right or privilege, civil or administrative
485 penalty or sanction, or disciplinary action by any accreditation or
486 licensing board or commission for providing health care services that
487 involve the medical use of marijuana consistent with this section and
488 legal standards of professional conduct.

489 (5) A testing laboratory shall not be subject to civil or criminal
490 prosecution, denial of any right or privilege, civil or administrative
491 penalty or sanction, or disciplinary action by any accreditation or
492 licensing board or commission for providing laboratory testing that
493 relates to the medical use of marijuana consistent with this section and
494 otherwise meets legal standards of professional conduct.

495 (6) A health care provider shall not be subject to mandatory
496 reporting requirements for the medical use of marijuana by

497 nonemancipated qualifying patients under eighteen years of age in a
498 manner consistent with this section and with consent of a parent or
499 guardian.

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

507 (8) An attorney shall not be subject to the disciplinary action by
508 the state bar association or other professional licensing body for
509 providing legal assistance to prospective or licensed medical marijuana
510 cultivation facilities, medical marijuana dispensary facilities, medical
511 marijuana-infused products manufacturing facilities, qualifying
512 patients, primary caregivers, physicians, health care providers or
513 others related to activity that is no longer subject to criminal penalties
514 under state law under this section.

515 (9) Actions and conduct by qualifying patients, primary
516 caregivers, medical marijuana cultivation facilities, medical marijuana-
517 infused products manufacturing facilities, or medical marijuana
518 dispensary facilities licensed or registered with the department, or
519 their employees or agents, as permitted by this section and in
520 compliance with department regulations and other standards of legal
521 conduct, shall not be subject to criminal or civil liability or sanctions
522 under Missouri law, except as provided for by this section.

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

527 (11) It is the public policy of the state of Missouri that contracts
528 related to marijuana for medical use that are entered into by qualifying
529 patients, primary caregivers, medical marijuana cultivation facilities,
530 medical marijuana-infused products manufacturing facilities, or
531 medical marijuana dispensary facilities and those who allow property
532 to be used by those entities, should be enforceable. It is the public
533 policy of the state of Missouri that no contract entered into by

534 **qualifying patients, primary caregivers, medical marijuana cultivation**
535 **facilities, medical marijuana-infused products manufacturing facilities,**
536 **or medical marijuana dispensary facilities, or by a person who allows**
537 **property to be used for activities that are exempt from state criminal**
538 **penalties by this section, shall be unenforceable on the basis that**
539 **activities related to medical marijuana may be prohibited by federal**
540 **law.**

541 **5. Nothing in this section shall limit the general assembly from**
542 **enacting laws consistent with this section, or otherwise effectuating the**
543 **patient rights of this section. The legislature shall not enact laws that**
544 **hinder the right of qualifying patients to access marijuana for medical**
545 **use as granted by this section.**

546 **6. (1) Nothing in this section permits a person to:**

547 **(a) Consume marijuana for medical use in a jail or correctional**
548 **facility; or**

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

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

554 **(d) Bring a claim against any employer, former employer, or**
555 **prospective employer for wrongful discharge, discrimination, or any**
556 **similar cause of action or remedy, based on the employer, former**
557 **employer, or prospective employer prohibiting the employee, former**
558 **employee, or prospective employee from being under the influence of**
559 **marijuana while at work or disciplining the employee or former**
560 **employee, up to and including termination from employment, for**
561 **working or attempting to work while under the influence of marijuana.**

562 **(2) No medical marijuana cultivation facility, medical marijuana**
563 **dispensary facility, or medical marijuana-infused products**
564 **manufacturing facility shall be owned in whole or in part, or have as**
565 **an officer, director, board member, manager, or employee, any**
566 **individual with a disqualifying felony offense. A "disqualifying felony**
567 **offense" is a violation of, and conviction or guilty plea to, state or**
568 **federal law that is, or would have been, a felony under Missouri law,**
569 **regardless of the sentence imposed, unless the department determines**
570 **that:**

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

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

575 (c) More than five years have passed since the person was
576 released from parole or probation, and he or she has not been found
577 guilty of any subsequent criminal offenses.

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

581 (3) All medical marijuana cultivation facility, medical marijuana
582 dispensary facility, or medical marijuana-infused products
583 manufacturing facility licenses shall be held by entities that are
584 majority owned by natural persons who have been citizens of the state
585 of Missouri for at least one year prior to the application for such
586 license or licenses. Notwithstanding the forgoing, entities outside the
587 state of Missouri may own a minority stake in such entities.

588 (4) A county may require a site permit for a medical marijuana
589 dispensary facility utilizing generally applicable permitting standards.
590 In addition, by February 1, 2017, a county may limit the number of site
591 permits to be granted for medical marijuana dispensary facilities,
592 provided however, that the number may not be limited to fewer than
593 one site for every thirty thousand inhabitants, or any portion thereof,
594 in such county, according to the most recent census of the United
595 States. After a county's initial site permit limit notification, a county
596 shall notify the department of any change to its site permit limit within
597 ten days of such decision; however, the number of site permits shall not
598 be less than the number of licenses previously issued by the
599 department for that county.

600 (5) No medical marijuana cultivation facility, medical marijuana
601 dispensary facility, or medical marijuana-infused products
602 manufacturing facility shall manufacture, package, or label marijuana
603 or marijuana-infused products in a false or misleading manner. No
604 person shall sell any product in a manner designed to cause confusion
605 between a marijuana or marijuana-infused product and any product not
606 containing marijuana. A violation of this subdivision shall be
607 punishable by an appropriate and proportional department sanction,

608 up to and including loss of license.

609 (6) All edible marijuana-infused products shall be sold in
610 individual, child-resistant containers that are labeled with dosage
611 amounts, instructions for use, and estimated length of effectiveness. All
612 marijuana and marijuana-infused products shall be sold in containers
613 clearly and conspicuously labeled, in a font size at least as large as the
614 largest other font size used on the package, as containing "marijuana",
615 or a "marijuana-infused product". Violation of this prohibition shall
616 subject the violator to department sanctions, including an
617 administrative penalty.

618 (7) No individual shall serve as the primary caregiver for more
619 than three qualifying patients.

620 (8) No qualifying patient shall consume marijuana for medical
621 use in a public place. Violation of this prohibition shall subject the
622 violator to sanctions as provided by general law.

623 (9) No person shall extract resins from marijuana using
624 dangerous materials or combustible gasses without a medical
625 marijuana-infused products manufacturing facility license. Violation
626 of this prohibition shall subject the violator to department sanctions,
627 including an administrative penalty and loss of their identification
628 card or license for up to one year.

629 (10) All patient cultivation shall take place in an enclosed, locked
630 facility that is equipped with security devices that permit access only
631 by the qualifying patient or by such patient's primary caregiver. Two
632 qualifying patients, who both hold valid patient cultivation
633 identification cards, may share one enclosed, locked facility. No more
634 than twelve patient or primary caregiver cultivated flowering
635 marijuana plants may be cultivated in a single, enclosed, locked
636 facility, except when a primary caregiver also holds a patient
637 cultivation identification card, in which case no more than eighteen
638 flowering marijuana plants may be cultivated in a single, enclosed,
639 locked facility.

640 (11) No medical marijuana cultivation facility, medical marijuana
641 dispensary facility, or medical marijuana-infused products
642 manufacturing facility shall assign, sell, give, lease, sublicense, or
643 otherwise transfer its license to any other entity without the express
644 consent of the department, not to be unreasonably withheld.

645 (12) Unless allowed by the local government, no new medical
646 marijuana cultivation facility, medical marijuana dispensary facility,
647 or medical marijuana-infused products manufacturing facility shall be
648 initially sited within one thousand feet of any then-existing elementary
649 or secondary school, child daycare center, or church. No local
650 government shall prohibit medical marijuana cultivation facilities,
651 medical marijuana dispensary facilities, or medical marijuana-infused
652 products manufacturing facilities, either expressly or through the
653 enactment of ordinances or regulations that make their operation
654 unduly burdensome in the jurisdiction. However, local governments
655 may enact ordinances or regulations not in conflict with this section,
656 or with regulations enacted under this section, governing the time,
657 place, and manner of such facilities in the locality. A local government
658 may establish civil penalties for violation of an ordinance or
659 regulations governing the time, place, manner of operation of a medical
660 marijuana cultivation facility, medical marijuana dispensary facility,
661 or medical marijuana-infused products manufacturing facility that may
662 operate in such locality.

663 (13) Unless superseded by federal law or an amendment to this
664 constitution, a physician shall not recommend the medical use of
665 marijuana to a patient by any means other than providing a physician
666 certification for the patient, whether handwritten, electronic, or in
667 another commonly used format. In any year, no physician shall issue
668 more physician certifications than a number equivalent to twenty-five
669 percent of his or her total number of prescriptions for other drugs. A
670 qualifying patient shall obtain a new physician certification at least
671 annually.

672 (14) A physician shall not issue a certification for the medical
673 use of marijuana for a nonemancipated qualifying patient under the
674 age of eighteen without the written consent of the qualifying patient's
675 parent or legal guardian. The department shall not issue a patient
676 identification card on behalf of a nonemancipated qualifying patient
677 under the age of eighteen without the written consent of the qualifying
678 patient's parent or legal guardian. Such card shall be issued to one of
679 the parents or guardians and not directly to the patient. Only a parent
680 or guardian may serve as a primary caregiver for a nonemancipated
681 qualifying patient under the age of eighteen. Only the qualifying

682 patient's parent or guardian shall purchase or possess medical
683 marijuana for a nonemancipated patient under the age of eighteen. A
684 parent or guardian shall supervise the administration of medical
685 marijuana to a nonemancipated patient under the age of eighteen.

686 (15) Nothing in this section shall be construed as mandating
687 health insurance coverage of medical marijuana for qualifying patient
688 use;

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

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

Bill ✓

Copy