

HB 1324 -- PILOT MEDICAL MARIJUANA PROGRAM

SPONSOR: Ellinger

This bill creates the Compassionate Use of Medical Cannabis Pilot Program Act. In its main provisions, the bill:

- (1) Defines numerous terms used in the Act (Section 195.700, RSMo);
- (2) Authorizes the Department of Health and Senior Services to enforce patient related provisions under the Act unless otherwise provided (Section 195.703). These provisions include:
 - (a) Establishing and maintaining a confidential registry of patients;
 - (b) Distributing educational materials about health risks associated with the abuse of cannabis and prescription drugs;
 - (c) Adopting rules to administer the patient and caregiver registration program; and
 - (d) Adopting rules establishing food handling requirements for cannabis-infused products prepared for human consumption;
- (3) Authorizes the Department of Agriculture to enforce provisions relating to the registration and oversight of cultivation centers unless otherwise provided (Section 195.703);
- (4) Authorizes the Department of Insurance, Financial Institutions and Professional Registration to enforce provisions relating to the registration and oversight of dispensing organizations unless otherwise provided (Section 195.703);
- (5) Creates the Compassionate Use of Medical Cannabis Fund (Section 195.706), the fund will be for administration of Sections 195.700 to 195.799 and will be deposited with the State Treasurer;
- (6) At the end of the time period any money remaining in the fund will be invested by the state treasurer and any interest earned will be credited to the fund.
- (7) Specifies that a qualified patient found in possession of no more than his or her adequate supply of cannabis will not be subject to arrest or prosecution (Section 195.709);
- (8) Specifies that a qualified patient who is a licensed professional and found in possession of no more than his or her

adequate supply of cannabis and the use of cannabis does not impair the licensed professional when he or she is engaged in his or her profession, will not be subject to disciplinary action by an occupational or professional licensing board (Section 195.709);

(9) Specifies that a designated caregiver will not be subject to arrest or prosecution if he or she does not possess more than the patient's adequate supply (Section 195.709);

(10) Defines who will be considered a qualified patient and designated caregiver and how they will be recognized;

(11) Specifies that a physician will not be subject to arrest or prosecution for providing statements or professional opinions that the medical use of cannabis is likely to benefit a patient with a debilitating medical condition (Section 195.709);

(12) Provides that no person will be subject to arrest or prosecution solely for selling cannabis paraphernalia to a cardholder, being in the presence or vicinity of a cardholder using cannabis for medical purposes, or assisting a registered patient with using cannabis (Section 195.709);

(13) Specifies that a registered cultivation center will not be subject to prosecution, search, or inspection except; by the departments that oversee the center or state and local law enforcement under Section 195.769 (Section 195.709);

(14) Specifies that a registered cultivation center agent will not be subject to prosecution, search, or penalties for working or volunteering at a registered cultivation center (Section 195.709);

(15) Specifies that a registered dispensing organization will not be subject to prosecution, search, or inspection except; by the departments that oversees the organization or state and local law enforcement under Section 195.769 (Section 195.709);

(16) Specifies that a registered dispensing organization agent will not be subject to prosecution, search, or penalties for working or volunteering at a registered dispensing organization (Section 195.709);

(17) Specifies that any cannabis, cannabis paraphernalia, illegal property, or interest in legal property that is possessed, owned, or used in connection with the medical use of cannabis will not be seized or forfeited, except those amounts greater than the adequate supply (Section 195.709);

(18) States that mere possession of or application for a registry

identification card will not constitute probable cause or reasonable suspicion to search the person, property, or home of the person possessing or applying for the card (Section 195.709);

(19) Specifies that state or local law enforcement agencies may search a registered cultivating center or registered dispensing organization if probable cause exists that criminal laws have been violated (Section 195.709);

(20) Specifies that criminal, civil, and other penalties may apply to those undertaking any task under the influence of cannabis, when doing so would be considered negligence, professional malpractice, or professional misconduct;

(21) Specifies that criminal, civil, and other penalties may apply to those who possess or use cannabis in a school bus; preschool, primary, or secondary school grounds; any correctional facility; in a vehicle, unless in a medical cannabis container and inaccessible while the vehicle is moving; in a private residence that is used at any time as a licensed child care or similar service;

(22) Specifies that criminal, civil and other penalties may apply to those who use cannabis in a public place, close proximity to someone who is underage, a health care facility, or where smoking is prohibited under state law (Section 195.712);

(23) Specifies additional circumstances where using cannabis is prohibited (Section 195.712);

(24) Specifies that nothing in this section will prevent the arrest or prosecution of a registered qualifying patient for reckless driving or driving under the influence where probable cause exists (Section 195.712);

(25) Specifies a person misrepresenting a medical condition to a physician or fraudulently providing material misinformation to a physician in order to obtain written classification is guilty of a class A misdemeanor (Section 195.712);

(26) Specifies the circumstances that causes a cardholder or registered caregiver to have his or her registry card revoked (Section 193.712);

(27) Requires physicians who certify debilitating medical conditions for qualified patients to:

(a) Be currently licensed under Chapter 334 to practice medicine in all its branches, be in good standing, and have prescriptive authority;

- (b) Comply with generally accepted standards of medical practice;
- (c) Perform the physical examination required by these sections in person and not by remote means; and
- (d) Maintain a record-keeping system for all patients for whom the physician has recommended the use of medical cannabis.

(28) Prohibits physicians from:

- (a) Accepting, soliciting, or offering any form of remunerations;
- (b) Offering a discount of any other item of value to a qualified patient who uses or agrees to use a particular primary caregiver or dispensing organization to obtain medical cannabis;
- (c) Conducting a personal physical examination of a patient for purposes of diagnosing a debilitating medical condition at a location where medical cannabis is sold, distributed, or at the address of a principal officer, agent, or employee of a medical cannabis organization;
- (d) Holding a direct or indirect economic interest in a cultivation center or dispensing organization if he or she recommends the use of medical cannabis;
- (e) Serving on the board of directors to a cultivation center, a dispensing organization, or as an employee of a cultivation center or dispensing organization;
- (f) Referring a patient to a cultivation center, dispensing organization, or designated caregiver; or
- (g) Advertising in a cultivation center or dispensing organization;

(29) Authorizes the Department of Health and Senior Services to refer a physician to other departments for potential violations;

(30) Prohibits a school, employer, or landlord from refusing to enroll, lease to, or otherwise penalize a person solely for his or her status as a registered qualifying patient or caregiver unless failure to do so would violate federal law or cause it to lose monetary or licensing-related benefits under federal laws or rules;

(31) Specifies a person entitled to custody, visitation, or parenting time with a minor child cannot be denied his or her right unless his or her actions in relation to cannabis creates an

unreasonable danger to the safety of the minor child established by clear and convincing evidence (Section 195.718);

(32) Specifies a school, landlord, or employer cannot be penalized for enrolling, leasing to or employing a cardholder (Section 195.718);

(33) Specifies that government medical assistance programs nor private health insurers will be required to reimburse a person for costs associated with medical use of cannabis;

(34) Specifies that property owners will not be required to allow patients to use cannabis on that property;

(35) Specifies a mechanism in which a citizen may request that the Department of Health and Senior Services add a debilitating condition or treatment to the list of debilitating medical conditions listed in Section 195.700;

(36) Specifies how the act affects employers (Section 195.724);

(37) Specifies how the Department of Health and Senior Services will issue registry cards;

(38) Requires a registered qualifying patient and designated caregiver to keep his or her registry identification card in his or her possession at all times when engaging in the medical use of cannabis;

(39) Specifies the information required on a registry identification card;

(40) Specifies a person who maintains a valid registration card to submit annually, at least 45 days prior to the expiration date, a renewal application, fee, and any other documentation required by the department;

(41) Specifies when a registered qualifying patient or caregiver is to notify the Department of Health and Senior Services (Section 195.739);

(42) Specifies the circumstances under which regulation of the service of food will not be required by the Department of Health and Senior Services or the Department of Agriculture; or the local health department (Section 195.742);

(43) Requires the Department of Health and Senior Services to adopt rules for the manufacture of medical cannabis-infused products (Section 195.742);

(44) Authorizes the Department of Health and Senior Services to enter any building, room, basement, enclosure, or premises occupied or used or suspected of being occupied or used for the production, preparation, manufacture for sale, storage, sale, distribution or transportation of edible medical cannabis-infused products, to inspect the premises and all utensils, fixtures, furniture, and machinery used for the preparation of the products (Section 195.742);

(45) Specifies the information required in the application for a cultivation center registration;

(46) Authorizes the Department of Agriculture to conduct a background check of a prospective cultivation center agent and specifies what procedures to follow during the process;

(47) Regulates where and how a registered cultivation center will operate;

(48) Authorizes the Department of Agriculture to suspend or revoke a registration subject to judicial review (Section 195.757);

(49) Authorizes the Department of Insurance, Financial Institutions and Professional Registration to issue up to 60 dispensing organization registrations for operation (Section 195.760);

(50) Specifies the minimum application requirements for a dispensing organization registration;

(51) Requires the department to destroy all fingerprints after criminal records checks are complete;

(52) Specifies the circumstances under which an application for a medical cannabis dispensing organization registration will be denied;

(53) Requires the Department of Insurance, Financial Institutions and Professional Registration to verify information contained in an application for renewal, approve or deny the application and issue a dispensing organization agent identification card to a qualifying agent within 15 business days, enter the registry identification number where the agent works, and allow for an electronic process;

(54) Specifies the elements to be on a dispensing organization agent identification card;

(55) Requires that written notice be sent to a registered

dispensing organization 90 days prior to the registration expiration;

(56) Requires a dispensing organization to cease operation if it expires until the renewal process has been completed;

(57) Specifies limitations for dispensing organizations;

(58) Authorizes local governments to enact reasonable zoning ordinances;

(59) Specifies that certain information and records collected by the Department of Health and Senior Services, the Department of Insurance, Financial Institutions and Professional Registration, the Department of Agriculture, and State Highway Patrol are subject to federal privacy laws, and are not subject to any individual or public or private entity except as necessary for those authorized under Sections 195.700 to 195.799;

(60) Requires the departments to notify law enforcement about falsified or fraudulent information submitted;

(61) Requires the Department of Health and Senior Services to maintain a confidential list of the persons to whom the department has issued a registry identification card;

(62) Specifies that a breach of confidentiality by the departments is a class A misdemeanor;

(63) Requires the departments to establish a computerized database or verification system within 180 days of the effective date;

(64) Requires the Department of Health and Senior Services to submit a report to the General Assembly by September 30 of each year that does not disclose any identifying information, but includes other certain elements detailed in the bill;

(65) Requires the departments to adopt rules, subject to Chapter 536, pertaining to the Act no later than 120 days after the effective date; and

(66) Requires that all cannabis byproduct, scrap, and harvested cannabis not intended for distribution be destroyed and disposed of in accordance with state law.

MEDICAL CANNABIS CULTIVATION PRIVILEGE TAX LAW

The bill creates the Medical Cannabis Cultivation Privilege Tax Law which will go into effect on January 1, 2015. A surcharge, in

addition to all other occupation or privilege surcharges and taxes imposed by the state will be imposed upon the privilege of cultivating cannabis at a rate of 7% of the sales price per ounce.

Every cultivation center subject to the surcharge is required to file a return with the Department of Agriculture on or before the 20th day of each month and establishes penalties for failure to sign the return.

Any medical cannabis cultivation center, medical cannabis dispensary organization, or political action committee created by them are prohibited from making contributions to any campaign or political committee established to promote a candidate public official.

CRIMINAL LAW

The bill prohibits a medical cannabis cardholder from using medical cannabis in the passenger area of any motor vehicle on a highway in this state or possessing medical cannabis within any motor vehicle unless it is in a medical cannabis container. Violating these provisions is a class A misdemeanor and the violator is subject to a possible two-year revocation of his or her medical cannabis card or status as a medical cannabis caregiver, medical cannabis cultivation center agent, or medical cannabis dispensing organization agent.

The bill does not prohibit law enforcement from conducting a chemical analysis or test to determine the presence of alcohol or other drugs as authorized by law.

SUNSET PROVISION

The provisions of this bill will expire six years after the effective date of the bill.