

HOUSE BILL NO. 2625

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE NEELY.

6620H.011

D. ADAM CRUMBLISS, Chief Clerk

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Section A. Sections 192.945, 195.207, 261.265, and 263.250, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 192.945, 195.207, 261.265,
3 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 under this section;
5 (4) "Intractable epilepsy", epilepsy that as determined by a neurologist does not respond
6 to three or more treatment options overseen by the neurologist;
7 (5) "Neurologist", a physician who is licensed under chapter 334 and board certified in
8 neurology;
9 (6) **"Medical marijuana", marijuana as defined in section 195.010 intended for a
10 medical use by a registrant;**
11 (3) **"Medical use", the acquisition, possession, use, or transportation of medical
12 marijuana by a registrant for use as part of the treatment of the registrant's serious
13 condition;**
14 (4) "Parent", a parent or legal guardian of a minor who is responsible for the minor's
15 medical care;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (5) **"Practitioner", a person who is a physician licensed by the state board of**
17 **registration for the healing arts and who has the primary responsibility for the care and**
18 **treatment of a person diagnosed with a serious condition;**

19 [(7)] (6) **"Registrant", an individual to whom the department issues a [hemp extract]**
20 **registration card under this section;**

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

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

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

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

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

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

35 (2) Is a Missouri resident;

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

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

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

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

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

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

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

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

- 53 (a) The individual's name and address;
- 54 (b) A copy of the individual's valid photo identification; and
- 55 (c) Any other information the department considers necessary to implement the
- 56 provisions of this section.
- 57 3. The department shall issue a [hemp extract] registration card to a parent who:
- 58 (1) Is eighteen years of age or older;
- 59 (2) Is a Missouri resident;
- 60 (3) Provides the department with a [statement] **certification** signed by a [neurologist]
- 61 **practitioner** that:
- 62 (a) Indicates that a minor in the parent's care suffers from [intractable epilepsy] **a serious**
- 63 **condition** and may benefit from treatment with [hemp extract] **medical marijuana**; [and]
- 64 (b) Is consistent with a record from the [neurologist] **practitioner** concerning the minor
- 65 contained in the database described in subsection 9 of this section;
- 66 (c) **The practitioner by training or experience is qualified to treat the serious**
- 67 **condition;**
- 68 (d) **The minor is under the practitioner's continuing care for the serious condition;**
- 69 **and**
- 70 (e) **Provides the form of medical marijuana the patient should consume, including**
- 71 **the method of consumption and any particular strain, variety, quantity, or percentage of**
- 72 **marijuana or active ingredient and the appropriate dosage;**
- 73 (4) Pays the department a fee in an amount established by the department under
- 74 subsection 6 of this section; and
- 75 (5) Submits an application to the department on a form created by the department that
- 76 contains:
- 77 (a) The parent's name and address;
- 78 (b) The minor's name;
- 79 (c) A copy of the parent's valid photo identification; and
- 80 (d) Any other information the department considers necessary to implement the
- 81 provisions of this section.
- 82 4. The department shall maintain a record of the name of each registrant and the name
- 83 of each minor receiving care from a registrant.
- 84 5. The department **may promulgate rules to authorize clinical trials involving**
- 85 **medical marijuana and** shall promulgate rules to:
- 86 (1) Implement the provisions of this section including establishing the information the
- 87 applicant is required to provide to the department and establishing in accordance with
- 88 recommendations from the department of public safety the form and content of the [hemp
- 89 extract] registration card; and

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

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

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

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

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

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

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

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

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

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

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

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

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

120 **13.** Any rule or portion of a rule, as that term is defined in section 536.010, that is
121 created under the authority delegated in this section shall become effective only if it complies
122 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
123 This section and chapter 536 are nonseverable and if any of the powers vested with the general
124 assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
125 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and
126 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
2 "hemp extract" shall mean an extract from a cannabis plant or a mixture or preparation
3 containing cannabis plant material that:

- 4 (1) Is composed of no more than three-tenths percent tetrahydrocannabinol by weight;
- 5 (2) Is composed of at least five percent cannabidiol by weight; and
- 6 (3) Contains no other psychoactive substance.

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

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

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

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

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

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

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

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

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

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

33 [3.] 2. Notwithstanding any other provision of this chapter, an individual who possesses
34 [hemp extract] **medical marijuana** lawfully under subsection [2] 1 of this section and
35 administers [hemp extract] **medical marijuana** to a minor suffering from [intractable epilepsy]

36 **a serious condition** is not subject to the penalties described in this chapter for administering the
37 [hemp extract] **medical marijuana** to the minor if:

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

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

41 [4.] **3.** An individual who has [been issued] a valid [hemp extract] registration card
42 under section 192.945, or is a minor under a registrant's care, may possess up to [twenty ounces
43 of hemp extract pursuant to this section. Subject to any rules or regulations promulgated by the
44 department of health and senior services, an individual may apply for a waiver if a physician
45 provides a substantial medical basis in a signed, written statement asserting that, based on the
46 patient's medical history, in the physician's professional judgment, twenty ounces is an
47 insufficient amount to properly alleviate the patient's medical condition or symptoms associated
48 with such medical condition] **a thirty day supply of the dosage as determined by the
49 practitioner, consistent with any regulations promulgated by the department of health and
50 senior services. During the last seven days of the thirty day period, the individual may also
51 possess an amount equal to a thirty day supply of the dosage for the following month.
52 Medical marijuana in an amount that does exceed a thirty day supply shall not be seized
53 from the individual if he or she presents a registration card. Any such property interest
54 shall not be forfeited under any provision of state or local law providing for the forfeiture
55 of property other than as a sentence imposed after a finding of guilty for a criminal offense.
56 Medical marijuana, paraphernalia, or other property seized from a registrant in
57 connection with the claimed medical use of marijuana shall be returned immediately upon
58 the determination by a court or prosecutor that the registrant is entitled to the protections
59 of this section, as may be evidenced by a decision not to prosecute, the dismissal of charges,
60 or an acquittal.**

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

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

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

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

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

73 **(3) Exoneration from drug testing when such test pertains to cannabinoids and**
74 **their metabolites whether by an employer or a member of a law enforcement agency.**

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

78 **8. Notwithstanding any law to the contrary, fraudulent representation to a law**
79 **enforcement official of any fact or circumstance relating to the medical use of marijuana**
80 **to avoid arrest or prosecution shall be a class D misdemeanor. Such penalty shall be in**
81 **addition to 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 for a
3 cultivation and production facility license in which the licensee is authorized to distribute
4 processed hemp extract to persons possessing a hemp extract registration card issued under
5 section 192.945;

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

9 (3) (2) "Cultivation and production facility license", a license that authorizes the
10 licensee to grow, cultivate, process, and possess [hemp and hemp extract] **medical marijuana**,
11 and distribute [hemp extract] **medical marijuana** to its [cannabidiol oil] **medical marijuana**
12 care centers;

13 (4) (3) "Department", the department of agriculture;

14 (5) (4) "Grower", a nonprofit entity issued a cultivation and production facility license
15 by the department of agriculture that produces [hemp extract] **medical marijuana** for the
16 treatment of [intractable epilepsy] **serious conditions as the term "serious conditions" is**
17 **defined under section 192.945**;

18 (6) "Hemp":

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

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

23 b. The percent based on a dry weight basis determined by the federal Controlled
24 Substances Act under 21 U.S.C. Section 801, et seq.;

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

26 a. Part of a growing crop;

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

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

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

30 (7) "Hemp]

31 (5) "**Medical marijuana**", shall have the same meaning as provided under section
32 **192.945**;

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

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

42 2. The department shall issue a cultivation and production facility license to a nonprofit
43 entity to grow or cultivate the cannabis plant used to make [hemp extract as defined in subsection
44 1 of section 195.207 or hemp] **medical marijuana** on the entity's property if the entity has
45 submitted to the department an application as required by the department under subsection 7 of
46 this section, the entity meets all requirements of this section and the department's rules, and there
47 are fewer than two licensed cultivation and production facilities operating in the state.

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

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

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

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

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

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

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

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

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

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

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

79 (5) Requirements that any [hemp extract] **medical marijuana** received from a legal
80 source be submitted to a testing facility designated by the department to ensure that such [hemp
81 extract] **medical marijuana** complies with the provisions of **this** section [195.207] and to ensure
82 that the [hemp extract] **medical marijuana** does not contain any pesticides. Any [hemp extract]
83 **medical marijuana** that is not submitted for testing or which after testing is found not to comply
84 with the provisions of **this** section [195.207] shall not be distributed or used and shall be
85 submitted to the department for destruction; and

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

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

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

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

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

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

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

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

109 [9.] **12.** All [hemp] waste from the production of [hemp extract] **medical marijuana**
110 shall either be destroyed, recycled by the licensee at the [hemp] **medical marijuana** cultivation
111 and production facility, or donated to the department or an institution of higher education for
112 research purposes, and shall not be used for commercial purposes.

113 [10.] **13.** In addition to any other liability or penalty provided by law, the director may
114 revoke or refuse to issue or renew a cultivation and production facility license and may impose
115 a civil penalty on a grower for any violation of this section, or section 192.945 or 195.207. The
116 director may not impose a civil penalty under this section that exceeds two thousand five
117 hundred dollars.

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

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

✓