

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2238
97TH GENERAL ASSEMBLY

6436S.07T

2014

AN ACT

To amend chapters 192, 195, and 261, RSMo, by adding thereto three new sections relating to hemp, with an emergency clause and penalty provisions.

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

Section A. Chapters 192, 195, and 261, RSMo, are amended by adding thereto three new sections, to be known as sections 192.945, 195.207, and 261.265, to read as follows:

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

- (1) "Department", the department of health and senior services;**
- (2) "Hemp extract", as such term is defined in section 195.207;**
- (3) "Hemp extract registration card", a card issued by the department under this section;**
- (4) "Intractable epilepsy", epilepsy that as determined by a neurologist does not respond to three or more treatment options overseen by the neurologist;**
- (5) "Neurologist", a physician who is licensed under chapter 334 and board certified in neurology;**
- (6) "Parent", a parent or legal guardian of a minor who is responsible for the minor's medical care;**
- (7) "Registrant", an individual to whom the department issues a hemp extract registration card under this section.**

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.

14 **2. The department shall issue a hemp extract registration card to an individual**
15 **who:**

16 **(1) Is eighteen years of age or older;**

17 **(2) Is a Missouri resident;**

18 **(3) Provides the department with a statement signed by a neurologist that:**

19 **(a) Indicates that the individual suffers from intractable epilepsy and may benefit**
20 **from treatment with hemp extract; and**

21 **(b) Is consistent with a record from the neurologist concerning the individual**
22 **contained in the database described in subsection 9 of this section;**

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

25 **(5) Submits an application to the department on a form created by the department**
26 **that contains:**

27 **(a) The individual's name and address;**

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

29 **(c) Any other information the department considers necessary to implement the**
30 **provisions of this section.**

31 **3. The department shall issue a hemp extract registration card to a parent who:**

32 **(1) Is eighteen years of age or older;**

33 **(2) Is a Missouri resident;**

34 **(3) Provides the department with a statement signed by a neurologist that:**

35 **(a) Indicates that a minor in the parent's care suffers from intractable epilepsy and**
36 **may benefit from treatment with hemp extract; and**

37 **(b) Is consistent with a record from the neurologist concerning the minor contained**
38 **in the database described in subsection 9 of this section;**

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

41 **(5) Submits an application to the department on a form created by the department**
42 **that contains:**

43 **(a) The parent's name and address;**

44 **(b) The minor's name;**

45 **(c) A copy of the parent's valid photo identification; and**

46 **(d) Any other information the department considers necessary to implement the**
47 **provisions of this section.**

48 **4. The department shall maintain a record of the name of each registrant and the**
49 **name of each minor receiving care from a registrant.**

50 **5. The department shall promulgate rules to:**

51 **(1) Implement the provisions of this section including establishing the information**
52 **the applicant is required to provide to the department and establishing in accordance with**
53 **recommendations from the department of public safety the form and content of the hemp**
54 **extract registration card; and**

55 **(2) Regulate the distribution of hemp extract from a cannabidiol oil care center to**
56 **a registrant, which shall be in addition to any other state or federal regulations; and**

57 **The department may promulgate rules to authorize clinical trials involving hemp extract.**

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

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

64 **8. The neurologist who signs the statement described in subsection 2 or 3 of this**
65 **section shall:**

66 **(1) Keep a record of the neurologist's evaluation and observation of a patient who**
67 **is a registrant or minor under a registrant's care including the patient's response to hemp**
68 **extract; and**

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

71 **9. The department shall maintain a database of the records described in subsection**
72 **8 of this section and treat the records as identifiable health data.**

73 **10. The department may share the records described in subsection 9 of this section**
74 **with a higher education institution for the purpose of studying hemp extract.**

75 **11. Any rule or portion of a rule, as that term is defined in section 536.010 that is**
76 **created under the authority delegated in this section shall become effective only if it**
77 **complies with and is subject to all of the provisions of chapter 536, and, if applicable,**
78 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
79 **vested with the general assembly pursuant to chapter 536, to review, to delay the effective**
80 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
81 **grant of rule making authority and any rule proposed or adopted after the effective date**
82 **of this section 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
5 weight;

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

7 (3) Contains no other psychoactive substance.

8 2. Notwithstanding any other provision of this chapter, an individual who has been
9 issued a valid hemp extract registration card under section 192.945, or is a minor under
10 a registrant's care, and possesses or uses hemp extract is not subject to the penalties
11 described in this chapter for possession or use of the hemp extract if the individual:

12 (1) Possesses or uses the hemp extract only to treat intractable epilepsy as defined
13 in section 192.945;

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

17 (3) Possesses, in close proximity to the hemp extract, a certificate of analysis that:

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

20 (b) Indicates the hemp extract's ingredients including its percentages of
21 tetrahydrocannabinol and cannabidiol by weight;

22 (c) Is created by a laboratory that is not affiliated with the producer of the hemp
23 extract and is licensed in the state where the hemp extract was produced; and

24 (d) Is transmitted by the laboratory to the department of health and senior services;
25 and

26 (4) Has a current hemp extract registration card issued by the department of health
27 and senior services under section 192.945.

28 3. Notwithstanding any other provision of this chapter, an individual who possesses
29 hemp extract lawfully under subsection 2 of this section and administers hemp extract to
30 a minor suffering from intractable epilepsy is not subject to the penalties described in this
31 chapter for administering the hemp extract to the minor if:

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

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

35 4. An individual who has been issued a valid hemp extract registration card under
36 section 192.945, or is a minor under a registrant's care, may possess up to twenty ounces
37 of hemp extract pursuant to this section. Subject to any rules or regulations promulgated
38 by the department of health and senior services, an individual may apply for a waiver if
39 a physician provides a substantial medical basis in a signed, written statement asserting

40 that, based on the patient's medical history, in the physician's professional judgment,
41 twenty ounces is an insufficient amount to properly alleviate the patient's medical
42 condition or symptoms associated with such medical condition.

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
5 under 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
8 authorized to grow, cultivate, process, and possess hemp and hemp extract;

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

12 (4) "Department", the department of agriculture;

13 (5) "Grower", a nonprofit entity issued a cultivation and production facility license
14 by the department of agriculture that produces hemp extract for the treatment of
15 intractable epilepsy;

16 (6) "Hemp":

17 (a) All non-seed parts and varieties of the cannabis sativa plant, whether growing
18 or not, that contain a crop wide average tetrahydrocannabinol (THC) concentration that
19 does not exceed the lesser of:

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

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

23 (b) Any cannabis sativa seed that is:

24 a. Part of a growing crop;

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

26 c. For processing into or use as agricultural hemp seed. This term shall not include
27 industrial hemp commodities or products.

28 (7) "Hemp monitoring system", an electronic tracking system that includes, but is
29 not limited to, testing and data collection established and maintained by the cultivation and
30 production facility and is available to the department for the purposes of documenting the
31 hemp extract production and retail sale of the hemp extract.

32 2. The department shall issue a cultivation and production facility license to a
33 nonprofit entity to grow or cultivate the cannabis plant used to make hemp extract as

34 defined in subsection 1 of section 195.207 or hemp on the entity's property if the entity has
35 submitted to the department an application as required by the department under
36 subsection 7 of this section, the entity meets all requirements of this section and the
37 department's rules, and there are fewer than two licensed cultivation and production
38 facilities operating in the state.

39 3. A grower may produce and manufacture hemp and hemp extract, and distribute
40 hemp extract as defined in section 195.207 for the treatment of persons suffering from
41 intractable epilepsy as defined in section 192.945 consistent with any and all state or
42 federal regulations regarding the production, manufacture, or distribution of such
43 product. The department shall not issue more than two cultivation and production facility
44 licenses for the operation of such facilities at any one time.

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

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

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

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

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

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

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

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

64 (3) Rules relating to hemp monitoring systems as defined in this section;

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

68 (5) Requirements that any hemp extract received from a legal source be submitted
69 to a testing facility designated by the department to ensure that such hemp extract complies
70 with the provisions of section 195.207 and to ensure that the hemp extract does not contain

71 any pesticides. Any hemp extract that is not submitted for testing or which after testing
72 is found not to comply with the provisions of section 195.207 shall not be distributed or
73 used and shall be submitted to the department for destruction; and

74 (6) Rules regarding the manufacture, storage, and transportation of hemp and
75 hemp extract, which shall be in addition to any other state or federal regulations.

76 8. Any rule or portion of a rule, as that term is defined in section 536.010, that is
77 created under the authority delegated in this section shall become effective only if it
78 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
79 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
80 vested with the general assembly under chapter 536 to review, to delay the effective date,
81 or to disapprove and annul a rule are subsequently held unconstitutional, then the grant
82 of rulemaking authority and any rule proposed or adopted after the effective date of this
83 section.

84 9. All hemp waste from the production of hemp extract shall either be destroyed,
85 recycled by the licensee at the hemp cultivation and production facility, or donated to the
86 department or an institution of higher education for research purposes, and shall not be
87 used for commercial purposes.

88 10. In addition to any other liability or penalty provided by law, the director may
89 revoke or refuse to issue or renew a cultivation and production facility license and may
90 impose a civil penalty on a grower for any violation of this section, or section 192.945 or
91 195.207. The director may not impose a civil penalty under this section that exceeds two
92 thousand five hundred dollars.

Section B. Because immediate action is necessary to provide individuals suffering from
2 epilepsy with access to medical treatment, section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and section A of this act shall be
5 in full force and effect upon its passage and approval.

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