

HJR 86 -- REGULATION AND TAXATION OF MARIJUANA

SPONSOR: Ellington

Upon voter approval this constitutional amendment legalizes marijuana use for persons 21 years of age or older and regulates it in a manner similar to alcohol by requiring proof of age before purchase; prohibiting the sale, distribution, or transfer to minors; prohibiting driving under the influence of marijuana; requiring that legitimate taxpayers conduct sales of marijuana and not criminals; and specifying that marijuana sold in Missouri must be labeled and subject to additional regulations to ensure customers are informed and protected.

The amendment declares that industrial hemp should be regulated separately from strains of cannabis with higher delta-9 tetrahydrocannabinol concentrations.

The amendment specifies that the following acts are not unlawful and must not be an offense under Missouri law or the law of any locality or be a basis for seizure or forfeiture of assets under Missouri law for anyone who is 21 years of age and older:

- (1) Possessing, using, displaying, purchasing, or transporting marijuana accessories or one ounce or less of marijuana;
- (2) Possessing, growing, processing, or transporting no more than six marijuana plants, with three or fewer being mature, flowering plants, and possession of the marijuana produced by the plants on the premises where the plants were grown provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale;
- (3) Transferring one ounce or less of marijuana without remuneration to another person who is 21 years of age or older;
- (4) Consumption of marijuana if it is not done so openly and publicly or in a manner that endangers others;
- (5) Assisting another person who is 21 years of age or older in any of the above acts;
- (6) Manufacturing, possessing, or purchasing marijuana accessories or the sale of marijuana accessories to a person who is 21 years of age or older;
- (7) Possessing, displaying, or transporting marijuana or marijuana products; purchase of marijuana from a marijuana cultivation facility; purchase of marijuana or marijuana products from a

marijuana product manufacturing facility; or sale of marijuana or marijuana products to consumers if the person conducting the activities described in this provision has obtained a current, valid license to operate a retail marijuana store or is acting in his or her capacity as an owner, employee, or agent of a licensed retail marijuana store;

(8) Cultivating, harvesting, processing, packaging, transporting, displaying, or possessing marijuana; delivery or transfer of marijuana to a marijuana testing facility; selling marijuana to a marijuana cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store; or the purchase of marijuana from a marijuana cultivation facility if the person conducting the activities described in this provision has obtained a current, valid license to operate a marijuana cultivation facility or is acting in his or her capacity as an owner, employee, or agent of a licensed marijuana cultivation facility;

(9) Packaging, processing, transporting, manufacturing, displaying, or possessing marijuana or marijuana products; delivery or transfer of marijuana or marijuana products to a marijuana testing facility; selling marijuana or marijuana products to a retail marijuana store or a marijuana product manufacturing facility; the purchase of marijuana from a marijuana cultivation facility; or the purchase of marijuana or marijuana products from a marijuana product manufacturing facility if the person conducting the activities described in this provision has obtained a current, valid license to operate a marijuana product manufacturing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed marijuana product manufacturing facility;

(10) Possessing, cultivating, processing, repackaging, storing, transporting, displaying, transferring, or delivering marijuana or marijuana products if the person has obtained a current, valid license to operate a marijuana testing facility or is acting in his or her capacity as an owner, employee, or agent of a licensed marijuana testing facility; and

(11) Leasing or otherwise allowing the use of property owned, occupied, or controlled by any person, corporation, or other entity for any of the activities conducted lawfully in accordance with these provisions.

The bill requires the Department of Revenue to adopt specified rules and regulations necessary for the implementation of these provisions no later than July 1, 2015. The rules and regulations must not prohibit the operation of marijuana establishments, either expressly or through rules and regulations that make their operation unreasonably impracticable.

The bill prohibits the Department of Revenue from requiring a consumer to provide a retail marijuana store with personal information other than government-issued identification to determine the consumer's age, and a retail marijuana store must not be required to acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.

The General Assembly must enact an excise tax to be levied upon marijuana sold or otherwise transferred by a marijuana cultivation facility to a marijuana product manufacturing facility or to a retail marijuana store at a rate not to exceed 15% prior to January 1, 2019, and at a rate to be determined by the General Assembly thereafter and must direct the Department of Revenue to establish procedures for the collection of all taxes levied. All excise tax revenue must be deposited to the credit of the general revenue; provided however, that no more than 5% be used for programs involving early childhood education and social services and that no excise tax revenue be used to fund any pension or public retirement plan.

No later than October 1, 2015, each locality must enact an ordinance or regulation specifying the entity within the locality that is responsible for processing applications submitted for a license to operate a marijuana establishment within the boundaries of the locality and for the issuance of licenses should the issuance by the locality become necessary because of a failure by the department to adopt regulations under these provisions.

A locality may enact ordinances or regulations, not in conflict with these provisions or with rules and regulations or legislation enacted under these provisions, governing the time, place, manner, and number of marijuana establishment operations; establishing procedures for the issuance, suspension, and revocation of a license issued by the locality in accordance with these provisions; establishing a schedule of annual operating, licensing, and application fees for marijuana establishments, provided, the application fee must only be due if an application is submitted to a locality in accordance with these provisions and a licensing fee must only be due if a license is issued by a locality in accordance with these provisions; and establishing civil penalties for violation of an ordinance or regulation governing the time, place, and manner of a marijuana establishment that may operate in the locality.

A locality may prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores through the

enactment of an ordinance or through an initiated or referred measure; provided, any initiative or referendum measure to prohibit the operation of marijuana cultivation facilities, marijuana product manufacturing facilities, marijuana testing facilities, or retail marijuana stores must appear on a general election ballot.

Each application for an annual license to operate a marijuana establishment must be submitted to the Department of Revenue. The department must begin accepting and processing applications on October 1, 2015, as specified in the bill.

If the department does not issue a license to an applicant within 90 days of receipt of the application filed in accordance with these provisions and does not notify the applicant of the specific reason for its denial, in writing and within that time period, or if the department has adopted rules and regulations under these provisions and has accepted applications under these provisions but has not issued any licenses by January 1, 2016, the applicant may resubmit its application directly to the locality under these provisions and the locality may issue an annual license to the applicant.

A locality issuing a license to an applicant must do so within 90 days of receipt of the resubmitted application unless the locality finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made under these provisions and the locality must notify the department if an annual license has been issued to the applicant.

If an application is submitted to a locality under these provisions, the department must forward to the locality the application fee paid by the applicant to the department upon request by the locality.

A license issued by a locality in accordance with these provisions must have the same force and effect as a license issued by the department in accordance these provisions and the holder of the license must not be subject to regulation or enforcement by the department during the term of that license. A subsequent or renewed license may be issued under these provisions on an annual basis only upon resubmission to the locality of a new application submitted to the department under these provisions.

If the department does not adopt rules and regulations required by these provisions, an applicant may submit an application directly to a locality after October 1, 2015, and the locality may issue an annual license to the applicant.

A locality issuing a license to an applicant must do so within 90

days of receipt of the application unless it finds and notifies the applicant that the applicant is not in compliance with ordinances and regulations made under these provisions and must notify the department if an annual license has been issued to the applicant.

A license issued by a locality in accordance with these provisions must have the same force and effect as a license issued by the department in accordance with these provisions and the holder of the license must not be subject to regulation or enforcement by the department during the term of that license.

A subsequent or renewed license may be issued under these provisions on an annual basis if the department has not adopted regulations required by these provisions at least 90 days prior to the date upon which the subsequent or renewed license would be effective or if the department has adopted regulations but has not, at least 90 days after the adoption of the regulations, issued licenses under these provisions.

Not later than July 1, 2016, the General Assembly must enact legislation governing the cultivation, processing, and sale of industrial hemp.

These provisions will become effective 30 days after majority approval of the voters of this state.