

HCS HB 2704 -- CANNABIS FREEDOM ACT

SPONSOR: Hicks

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Public Safety by a vote of 5 to 4. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 6 to 4.

The following is a summary of the House Committee Substitute for HB 2704.

This bill establishes the "Cannabis Freedom Act".

Under the provisions of this bill, taxpayers are authorized to conduct business under the medical cannabis provisions of the Constitution of Missouri or under the provisions of this bill may deduct the amount that would have been deducted from the computation of the taxpayer's federal taxable income if such a deduction were not disallowed under 26 U.S.C. Section 280E, as in effect on January 1, 2022, because of the status of marijuana as a controlled substance under federal law (Section 143.121, RSMo).

No state agency shall disclose to the federal government, any federal government employee, or any unauthorized third party, the statewide list or any individual information of persons who have applied for or obtained a qualifying patient identification card, a qualifying patient cultivation identification card, or a primary caregiver identification card, as those cards are described in Article XIV, Section 1 of the Constitution of Missouri relating to the right to access medical marijuana (Section 191.255).

This bill removes marijuana and tetrahydrocannabinols (THC), as defined, from the list of controlled substances and removes marijuana from the offenses of possession, delivery, distribution, manufacture, and trafficking of a controlled substance (Sections 195.006, 195.017, 579.015, 579.020, 579.030, 579.055, 579.065, and 579.068).

Currently, all owners, officers, managers, contractors, employees, and other support staff of licensed or certified medical marijuana facilities must submit fingerprints to the State Highway Patrol for state and federal criminal background checks. Additionally, the Department of Health and Senior Services may require fingerprint submissions of owners, officers, managers, contractors, employees, and other support staff for licensure authorizing that person to own or work at a medical marijuana facility. This bill adds that the Cannabis Enforcement Authority will require all officers, managers, contractors, employees, and other support staff of

marijuana business, and the owners of the businesses, to be subject to such fingerprinting (Section 195.815).

These sections establish the "Cannabis Freedom Act". The Cannabis Enforcement Authority shall promulgate all necessary rules and regulations for the administration of these sections. The provisions of these sections shall not restrict the rights of employers to maintain a drug- and alcohol-free workplace or require any employer to allow or accommodate the use of marijuana. These provisions shall not allow the operation of motor vehicles while impaired by marijuana, or allow individuals under the age of 21 to purchase marijuana. These provisions do not restrict the rights of employers, schools, care facilities, or correctional facilities to prohibit or regulate conduct otherwise allowed under these provisions.

These provisions legalize the possession and consumption of marijuana for personal use, allow for anyone 21 years of age or older to cultivate and possess no more than six mature, flowering marijuana plants for noncommercial use, and allows for the sale of marijuana products to consumers 21 years of age or older. The use or possession of marijuana shall not impede a person's legal right to possess a firearm. It shall be lawful for a person 21 years of age or older to transfer or gift marijuana to another adult or for a parent or guardian to transfer or gift marijuana to a person under 21 years of age if that person has a recommendation by a physician.

Marijuana farmers, manufacturers, processors, and distributors shall not be subject to special zoning requirements or licensing fees.

Asset or civil forfeiture shall no longer be used in the state in association with legal marijuana cultivation, use, sale, or possession.

A tax shall be levied on the sale of marijuana and marijuana products at a rate not to exceed 4.225%. All tax revenues collected shall be deposited into the "Cannabis Freedom Fund", as established under the bill, and used to pay for costs associated with the implementation, administration, and enforcement of the provisions of these sections. Excess moneys remaining in the Fund shall be divided in proportions specified in the bill between deputy sheriffs, Peace Officer Standards and Training (POST) Commission, and volunteer fire protection associations, as well as to provide help for small business loans and to the Department of Health and Senior Services to establish and administer a work training program. These provisions shall not prohibit any state or local sales taxes. Any sale of marijuana for medical use shall not

be subject to the tax established herein.

These provisions establish the "Cannabis Enforcement Authority", under the Department of Health and Senior Services. The Authority shall have oversight and auditing responsibilities and shall implement an inventory tracking system. The Authority shall require business records be kept for all transactions. Inventory shall be tracked and updated after each individual sale and reported to the Authority. The Authority shall require a seed-to-sale tracking system that tracks marijuana from either the seed or immature plant stage until the marijuana or marijuana product is sold to a consumer, as described in the bill.

These provisions establish the marijuana business license, which includes annual licenses for the following categories: marijuana commercial growers, marijuana processors, and marijuana retailers. Grower, processor, and retailer, prospective licensees must submit a comprehensive application for an annual license.

The Authority shall develop a website for marijuana business applications. Applications must meet general requirements as provided in the bill and all applicants shall undergo a background check. The Authority shall review, approve or reject, and mail such approval or rejection within 90 days of receipt of the application.

A licensed commercial grower shall sell only at the wholesale level to a licensed retailer, grower, or processor. Licensed commercial growers and processors shall complete and submit monthly yield and sales reports to the Authority, as described in the bill. The Authority shall have oversight and auditing responsibility to ensure all marijuana grown by a licensed commercial grower is accounted for and all marijuana processors producing products with marijuana as an additive are in compliance with the requirements of the bill.

In addition to the application requirements established under these provisions, licensed commercial growers and processors shall demonstrate that they have a bank account and shall provide growth estimates, processing estimates, and predicted electrical and water usage to grow or process marijuana.

The Authority may issue different kinds of processor licenses based on the level of risk posed by the type of processing being conducted as either a nonhazardous marijuana processor license or a hazardous marijuana processor license. The Authority shall establish standards for licensed processors for the preparation of edible marijuana products.

A marijuana transporter license shall allow the holder to transport marijuana from a Missouri-licensed marijuana retailer, licensed commercial grower facility, or licensed processor facility to a Missouri-licensed marijuana retailer, licensed commercial grower facility, or licensed processing facility. All marijuana or marijuana products shall be transported in a locked container labeled as "Marijuana or Derivative". No business may possess, sell, or transfer marijuana without a valid transporter license. A transporter licensee may contract with multiple marijuana businesses. A transporter licensee shall use the seed-to-sale tracking system promulgated by the Authority. The Authority shall issue transporter agent licenses to individual agents, employees, and owners of a transporter license in order for that individual to qualify to transport marijuana. Such agent license shall be subject to an annual fee of \$100 and shall be valid for three years or until the transporter licensee alerts the Authority that the agent is no longer employed by the licensee. The transportation and inventory tracking of marijuana and marijuana products shall comply with requirements as provided for in the bill.

In addition to failure to meet the requirements established under the bill, grounds for denial for a temporary or annual license shall include: unlawful sales or purchases, fraudulent acts, falsified records or misrepresentation to the Authority, grossly inaccurate or fraudulent reporting, threatening or harming any marijuana patient, caregiver, consumer, medical practitioner, or employee of the Authority, use of prohibited substances for processing in residential areas, and endangering public health and safety.

If marijuana is decriminalized on a federal level, any licensed marijuana business in the state may engage in interstate commerce, and the state may enter into any interstate compact or agreement relating to marijuana (Sections 196.3000 to 196.3048).

No bank, trust company, association, or credit union shall be prohibited, penalized, have any adverse action taken against it, or otherwise discouraged from providing financial services to facilities licensed under the provisions of this bill or under Article XIV, Section 1 of the Constitution of Missouri or to any service provider to such a facilities.

Furthermore, banks, trust companies, associations, and credit unions are permitted to receive the savings of, make loans to, deposit the funds of, and invest funds of customers who operate as a facility licensed under the provisions of this bill or under Article XIV, Section 1 of the Constitution of Missouri. No such institution acting pursuant to this bill shall be liable under state law for contracting with such facilities (Sections 362.105,

369.144, 369.326, 370.064, and 370.070).

Any conviction, remaining sentence, ongoing supervision, or unpaid court-ordered restitution of any person incarcerated, on probation or parole, or other form of community supervision resulting from a conviction of a nonviolent marijuana-related offense shall have such conviction, remaining sentence, ongoing supervision, or unpaid court-ordered restitution vacated if the person files a petition in the court in which the person was convicted of the offense or violation. The lawful possession or use of marijuana shall not result in any punitive action with regard to probation or parole status. No condition of probation or parole shall consist of restricting the possession or use of marijuana, and no revocation or extension of probation or parole shall be imposed as a consequence of the lawful possession or use of marijuana.

Any person who was convicted of a nonviolent marijuana-related offense may petition the court to have such offense expunged so long as the offense or violation was prosecuted under the jurisdiction of a Missouri court and all nonviolent marijuana-related offenses are listed in the petition of expungement (Sections 559.023, 557.059, and 610.135).

This bill contains penalty provisions.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that this has been coming for a long time. This is meant to legalize marijuana in the state, and the body needs to talk about it. This is not meant to take away from the initiative petition process, but we have medical marijuana because of initiative petition and because it went that way, it is not something the legislature can fix. This includes legislation from other members of the body filed over the last four years. We are not going to have this look like Oklahoma, where marijuana is not legal because there is no regulatory framework but their medical marijuana situation was done in an initiative petition way. Oklahoma is stuck in what is happening there because the legislature failed to act, and this body needs to act. We have been trying to pass little pieces of marijuana reform for a long time. We need to regulate this but not to the point where you are hindering business. The end result is coming no matter what, so we should be able to tackle it as a body and do it the right way the first time. The piece about possession/use of marijuana and the ability to possess a firearm: we should not be regulating people's personal responsibility. We need to address certain things in the bill, things that need to be ironed out. Like if the tax on it is

too high, it will fuel the black market. Same with fixing the issue for people who have already invested a lot of time and money into jumping through hoops to get the medical license so that they do not have to jump through the same hoops again. It is unnecessary. Having the legislation not go to General Revenue (GR) is to allow for line items so you can see where the money is going. If it goes to GR, there is no line item to track where it is going. There is no limit to how many dispensary licenses people can have. People should not have to stay in prison if marijuana is legalized if they are caught with less than a certain amount and there are some really good and intelligent people who have been caught with marijuana. Marijuana is going to flood Missouri from other states, like California and Oklahoma, so we might as well get it going here. It is now cheaper to buy marijuana on the black market because of the initiative process. And it burdens law enforcement because they were not part of the conversation when it first went through. The way they have to inquire now about whether someone has a medical card takes a really long time and it hinders the law enforcement process. People choose to sit down and relax with a glass of wine, so they can choose to sit down with marijuana. The price of legal marijuana is almost double the price on the black market, and it fuels drug cartels and human trafficking. In 2020 there were 10,000 marijuana possession arrests reported to the FBI and this amounts to lots of money spent enforcing these laws. The ballot initiative makes it so only a few corporations can control this market. Missouri should go the Michigan route. There is more than one way to get this done. It is not enough to expunge; it has to be reentry services. Of the incarceration population for drugs, 40% is minorities and they are a small representative of the trade. Legal Missouri 2022 is bad and takes a dig at pharmaceuticals and it creates more hoops and a corporate monopoly. There is devastation to massive portions of the community through the criminalization. The Governor said he wants the legislature to get this done; otherwise this is going to get done on a ballot initiative and it is going to be bad. This is an opportunity for minority groups, including felons, to get involved in the business side of this industry. It makes no sense that a bar owner could sell someone a fifth of Jack Daniels but cannot sell a joint. Medical patients are able to get off certain medications because they now have access to medical marijuana, even though the industry is very frustrating. It is medically beneficial and we need to think about patients, and not just the pockets of people being lined. The black market is blowing up and Missouri dollars are going to the west coast because of the limited licensing. Tax dollars in Missouri and sales dollars are dollars that need to be kept here and not spent in California and Colorado or Oklahoma. People in the bootheel are poor and they cannot afford dispensary prices. Cannabis has changed lives. Parents cannot afford to get their kids' medication from dispensaries and get food. They cannot

grow if they are renters. The veterans who commit suicide every day, it is more than 22, which is the common number. The reason it is more is because the alcohol and opioids they consume kill them. Veterans should not have to pay for medication at all. They are on a fixed income.

Testifying for the bill were Representative Hicks; Alexandra Nicole Spreng; Allen Iler; Andrew Beavers, Cultacare LLC; Clayton Utterback; Daniel Ray Suddarth; Deidre Woods; Eldon Orr; Erienne Hartley; JC Blackmon; Jeffrey Sutton; John Hirt; Joseph Alan Moore; Josh Wilson; Kacey Leigh Klingel; Kaitlyn Spears; Kimberly R Denny; Logan Thomas Hada; Marianne Hada; Mary Cremer; Richard G Crossman; Sarah Smith; Taylor Wilson; Thomas Grellner, New Horizons Farms; Travis Keith Ruch; William A Buchanan; Zachary J Harrington; Mark Powell; Dan Dzigala; Randy Dale Johnson; Amy Powell; James Janes; Kathy L. Kitrel; Megon Cody; Americans for Prosperity; Matthew D. Kitrel; Candy Ann Henry; Erik Shelquist; Michael Desmond; Sya Collins; Daniel A. Jones; Arlen P. McGee; Timothy Gilio; Jonathan Touert; Christina Thompson; Gamal E. Castile; Timothy Goosey; Kyle Duff; Jeremiah Oakley; Dylan Grisham; Eric McCauley; Brandon Sportsman; Jennifer Goll; Brandi Ortega Lopez, Marry Pottins Supply LLC; Steve Burrus; Richard Breland; Debra Nash; Rebecca A. Groom; Josh J. Loftis, Home Grow Solutions Missouri LLC; Shayna Wells; Stewart Wells; Matthew Neal; Vernon McClanahan, Eleveated Lifestyles LLC; Ric Sadler, Jeff Gro; Gabriel Lange; Adela Wisdom; Aaron Wisdom; Chris Hammann; Kimberly Kowalski; Wendy & Coltyn Turner; John T. Grady; Chris Bell; James Thomas; Jeannine Griggs; Kat Allison; Matthew Overcast; Brennan England, Minorities for Medical Marijuana; Shane W. Burks; Joani Harshman, Harshman Law Firm; Angel Smith; Dominic Prater; Jeanettia Anderson; Nellie Williams; Paul Calliccoat, Sarcoxie Nursery; Wendy Calliccoat, Sarcoxie Nursery; Luke Barber; and Jeff Bueckendorf.

OPPONENTS: Those who oppose the bill say that there is youth marijuana use in Colorado as well as impaired driving in Colorado. Marijuana is involved in one out of every four road deaths in CO. These are social concerns. These issues are in Illinois as well as Colorado. Emergency room visits are on the rise related to this in those states, too. This is going to disproportionately impact lower income people in the work industry. It is a well-regulated industry by DHSS. They are very strict but they keep it well-regulated. There is no regulation in Oklahoma; it is like the Wild West. There is a large group of Chinese nationals involved in the marijuana trade in Oklahoma. That money coming back into the economy of Oklahoma, they are convinced that it is going back overseas to China. There is really no difference between the medical market in Oklahoma; it might as well be a recreational market. If you do not have any enforcement mechanism, you are

going to have a problem. Our current market: 38 grows in Missouri that are up and running. The limit was 60 and it is probably going to grow a little. What we have seen here recently is the current supply out-paces demand. Pounds of marijuana are selling for \$1600, and it is probably going to go down to \$800 a pound when you reach capacity. The black market has been around for a long time. It operates because states tax at such a high rate. Here you can produce at such a high level and quality that you can probably drive the black market out. If you open the market in Missouri, you are going to have very similar consequences to Oklahoma. You have to think about how this is going to affect law enforcement. If you give them lots more work to do but do not increase their funding, you are essentially defunding them. This needs to be regulated and it is no different from DEA regulating the pharmaceutical industry. It takes no requirements basically to get a medical marijuana card. There is no enforcement in the bill, so, even if there are rules, there is no incentive to follow them because nothing will happen. It is going to travel across state borders, so we are going to flood the markets of Arkansas, Kansas, Texas, etc. We are going to create such a volume of marijuana so it is not going to stay here. There should be a limit on licenses for growing in Missouri. Putting a recreational market on a department, it is going to be a train wreck. Security regulations: cannabis facilities must employ security managers, who have to make the facilities as secure as possible while still being cost effective. DHSS requires this, but there is not anything like this in the bill. It is not cheap or fast but it is necessary to keep the industry safe. There are definitely going to be armed robberies at some point since it has happened in every other state. License caps: there is no perfect number, but the more licenses you have, the more likely it is that there will be no way to regulate it. There are just not enough people to do it. Department of Agriculture will have to hire investigator/regulators to go around the state to do this. Possession limits: there needs to be a reasonable possession limit. There is nothing in the bill that requires mandatory testing, so this is a huge public safety concern. Products in dispensaries have to be tested to be sure they are safe. It is also not just the product itself that could be contaminated; it could be the packaging, too. There are 10 licensed testing facilities in Missouri, and about six are up and running. They test all the medical marijuana in Missouri. For the medical marijuana, the testers go into the lab to do the testing, and that is not something required by the bill. The bill says growers can send samples to a lab. 90 days for the state to turn around unlimited licenses is unreasonable and unrealistic. Barely any licensees are able to turn a profit. Follow the revenue if you want to determine how many licenses would be appropriate. There are already too many licenses and there is an over supply. Opening this up to unlimited licenses will expand the black market and

decrease quality. People are buying really cheap marijuana in Oklahoma and selling it higher in other states. There are 175,000 patients and caregivers in Missouri (for medical marijuana). There have been nearly 400 license issued to date. Why can't current medical marijuana licensees apply for a recreational license until 2024? The product also needs to be tested because you want to make sure the products are safe. There is no way to have all the testing and security measures, which are necessary but definitely expensive, and have a low-priced product.

Testifying against the bill were James Alicie; Eric Zahnd, Missouri Association of Prosecuting Attorneys; Missouri Catholic Conference; Arnie C. Ac Dienoff; Missouri State Medical Association; Stephen Nitter, Missouri Association Of Osteopathic Physicians and Surgeons (MAOPS); Missouri Chapter, American Academy of Pediatrics; Joe Patterson; Natalie Brown, EKG Labs; John Pennington, Proper Cannabis; Joe Delia, U.S. Canna; Eric Walter, Mo Cann Trade; Brooke Foster, Coco Dispensaries; and Gavin Walker.

OTHERS: Others testifying on the bill say that there is a lot of specific, regulatory provision language in the bill, and it is to avoid the "wild west" situation in Oklahoma. There is all sort of information that has to be shown and proven before you can get a license. The reason there is an oversupply is because this is not a commodity market product or whatever he said. This proposal pushes the state toward having that. Department of Agriculture was chosen specifically because it already regulates hemp, which is the same plant. There is a lack of education, understanding, and something else to understand the parameters of the constitutional provision of marijuana.

Testifying on the bill were Damien Johnson; Brian Riegel, South Point Hemp; Kevin Halderman; Eapen Thampy, Canamo Solutions, Federal Storage, and Blue Line.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.