

SECOND REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2238
97TH GENERAL ASSEMBLY

6436H.05P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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 four new sections, to be known as sections 192.945, 195.207, 261.265, and 261.267, 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.

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

(1) Is eighteen years of age or older;

(2) Is a Missouri resident;

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.

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

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

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

60 8. The neurologist who signs the statement described in subsection 2 or 3 of this
61 section shall:

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

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

67 9. The department shall maintain a database of the records described in subsection
68 8 of this section and treat the records as identifiable health data.

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

195.207. 1. As used in section 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 possesses
9 or uses hemp extract is not subject to the penalties described in this chapter for possession
10 or use of the hemp extract if the individual:

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

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

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

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

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

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

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

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

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

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

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

34 4. Notwithstanding any other provision of this chapter, an individual who possesses
35 up to twenty ounces of hemp extract is not subject to the penalties described in this chapter
36 for possession or use of hemp extract. Subject to any rules or regulations promulgated by
37 the department of health and senior services, an individual may apply for a waiver if a
38 physician provides a substantial medical basis in a signed, written statement asserting that,
39 based on the patient's medical history, in the physician's professional judgment, twenty
40 ounces is an insufficient amount to properly alleviate the patient's medical condition or
41 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 license in which the licensee is authorized to distribute processed hemp extract to
4 consumers, including 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
8 authorized to grow, cultivate, process, and possess hemp and hemp extract;

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

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

12 (5) "Grower", a nonprofit entity licensed by the department of agriculture that
13 produces hemp extract for the treatment of intractable epilepsy;

14 **(6) "Hemp":**

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

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

19 **b. The percent based on a dry weight basis determined by the federal Controlled**
20 **Substances Act;**

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

22 **a. Part of a growing crop;**

23 **b. Retained by a grower for future planting; or**

24 **c. For processing into or use as agricultural hemp seed.**

25 **This term shall not include industrial hemp commodities or products.**

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

30 **2. All growers shall keep records in accordance with rules adopted by the**
31 **department. Upon at least three days notice, the director of the department may audit the**
32 **required records during normal business hours. The director may conduct an audit for**
33 **the purpose of ensuring compliance with this section.**

34 **3. In addition to an audit conducted in accordance with subsection 2 of this section,**
35 **the director may inspect independently, or in cooperation with the state highway patrol or**
36 **a local law enforcement agency, any hemp crop during the crop's growth phase and take**
37 **a representative composite sample for field analysis. If a crop contains an average**
38 **tetrahydrocannabinol (THC) concentration exceeding the lessor of:**

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

40 **(2) The percent based on a dry weight basis determined by the federal Controlled**
41 **Substance Act under 21 U.S.C. Section 801 et seq.**

42 **4. A grower may produce, manufacture, and distribute hemp extract as defined**
43 **in section 195.207 for the treatment of persons suffering from intractable epilepsy as**
44 **defined in section 192.945 consistent with any and all state or federal regulations regarding**
45 **the production, manufacture, or distribution of such product. The department of**
46 **agriculture and the department of health and senior services shall establish rules and**
47 **regulations regarding the manufacture, storage, transportation, and distribution of hemp**
48 **extract under this section which shall be in addition to any other state or federal**

49 regulations. Up to two licenses in the state may be granted by the department and a
50 licensee may have up to three cannabidiol oil care centers.

51 5. All hemp waste from the production of hemp extract shall either be destroyed,
52 recycled by the licensee at the hemp cultivation and production facility, or donated to the
53 department or an institution of higher education for research purposes, and shall not be
54 used for commercial purposes.

55 6. The department shall license a grower to grow or cultivate the cannabis plant
56 used to make hemp extract as defined in subsection 1 of section 195.207 or hemp on its
57 property if the grower has submitted to the department an application as required by the
58 department under subsection 8 of this section.

59 7. The department shall maintain a list of cultivation and production facility
60 licensees.

61 8. The department shall promulgate rules including, but not limited to, application
62 requirements for licensing, security requirements for cultivation and production facility
63 premises, including, at a minimum, lighting, physical security, video and alarm
64 requirements, hemp monitoring systems as defined in this section, and other procedures
65 for internal control as deemed necessary by the department to properly administer and
66 enforce the provisions of this section, including reporting requirements for changes,
67 alterations, or modifications of the premises. Any rule or portion of a rule, as that term
68 is defined in section 536.010, that is created under the authority delegated in this section
69 shall become effective only if it complies with and is subject to all of the provisions of
70 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
71 nonseverable, and if any of the powers vested with the general assembly under chapter 536
72 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
73 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
74 adopted after August 28, 2014, shall be invalid and void.

261.267. The department of agriculture shall adopt rules and regulations requiring
2 any hemp extract received from a legal source to be submitted to a testing facility
3 designated by the department to ensure that such hemp extract complies with the
4 provisions of section 195.207 and to ensure that the hemp extract does not contain any
5 pesticides. Any hemp extract that is not submitted for testing or which after testing is
6 found not to comply with the provisions of section 195.207 shall not be distributed or used
7 and shall be submitted to the department for destruction. Any rule or portion of a rule,
8 as that term is defined in section 536.010, that is created under the authority delegated in
9 this section shall become effective only if it complies with and is subject to all of the
10 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536

11 are nonseverable, and if any of the powers vested with the general assembly under chapter
12 536 to review, to delay the effective date, or to disapprove and annul a rule are
13 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
14 proposed or adopted after August 28, 2014, shall be invalid and void.

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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