

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2238

97TH GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, April 30, 2014, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

6436S.07C

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
2 thereto three new sections, to be known as sections 192.945, 195.207, and
3 261.265, to read as follows:

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

3 **(1) "Department", the department of health and senior services;**

4 **(2) "Hemp extract", as such term is defined in section 195.207;**

5 **(3) "Hemp extract registration card", a card issued by the**
6 **department under this section;**

7 **(4) "Intractable epilepsy", epilepsy that as determined by a**
8 **neurologist does not respond to three or more treatment options**
9 **overseen by the neurologist;**

10 **(5) "Neurologist", a physician who is licensed under chapter 334**
11 **and board certified in neurology;**

12 **(6) "Parent", a parent or legal guardian of a minor who is**
13 **responsible for the minor's medical care;**

14 **(7) "Registrant", an individual to whom the department issues a**
15 **hemp extract registration card under this section.**

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

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

19 (2) Is a Missouri resident;

20 (3) Provides the department with a statement signed by a
21 neurologist that:

22 (a) Indicates that the individual suffers from intractable epilepsy
23 and may benefit from treatment with hemp extract; and

24 (b) Is consistent with a record from the neurologist concerning
25 the individual contained in the database described in subsection 9 of
26 this section;

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

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

31 (a) The individual's name and address;

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

33 (c) Any other information the department considers necessary to
34 implement the provisions of this section.

35 3. The department shall issue a hemp extract registration card
36 to a parent who:

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

38 (2) Is a Missouri resident;

39 (3) Provides the department with a statement signed by a
40 neurologist that:

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

44 (b) Is consistent with a record from the neurologist concerning
45 the minor contained in the database described in subsection 9 of this
46 section;

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

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

51 (a) The parent's name and address;

52 (b) The minor's name;

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

54 (d) Any other information the department considers necessary
55 to implement the provisions of this section.

56 4. The department shall maintain a record of the name of each
57 registrant and the name of each minor receiving care from a registrant.

58 5. The department shall promulgate rules to:

59 (1) Implement the provisions of this section including
60 establishing the information the applicant is required to provide to the
61 department and establishing in accordance with recommendations from
62 the department of public safety the form and content of the hemp
63 extract registration card; and

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

67 The department may promulgate rules to authorize clinical trials
68 involving hemp extract.

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

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

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

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

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

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

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

88 11. Any rule or portion of a rule, as that term is defined in
89 section 536.010 that is created under the authority delegated in this
90 section shall become effective only if it complies with and is subject to
91 all of the provisions of chapter 536, and, if applicable, section
92 536.028. This section and chapter 536 are nonseverable and if any of

93 the powers vested with the general assembly pursuant to chapter 536,
94 to review, to delay the effective date, or to disapprove and annul a rule
95 are subsequently held unconstitutional, then the grant of rulemaking
96 authority and any rule proposed or adopted after the effective date of
97 this section shall be invalid and void.

195.207. 1. As used in sections 192.945, 261.265, 261.267, and this
2 section, the term "hemp extract" shall mean an extract from a cannabis
3 plant or a mixture or preparation containing cannabis plant material
4 that:

5 (1) Is composed of no more than three tenths percent
6 tetrahydrocannabinol by weight;

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

9 (3) Contains no other psychoactive substance.

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

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

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

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

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

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

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

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

32 (4) Has a current hemp extract registration card issued by the

33 department of health and senior services under section 192.945.

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

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

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

42 4. An individual who has been issued a valid hemp extract
43 registration card under section 192.945, or is a minor under a
44 registrant's care, may possess up to twenty ounces of hemp extract
45 pursuant to this section. Subject to any rules or regulations
46 promulgated by the department of health and senior services, an
47 individual may apply for a waiver if a physician provides a substantial
48 medical basis in a signed, written statement asserting that, based on
49 the patient's medical history, in the physician's professional judgment,
50 twenty ounces is an insufficient amount to properly alleviate the
51 patient's medical condition or symptoms associated with such medical
52 condition.

261.265. 1. For purposes of this section, the following terms shall
2 mean:

3 (1) "Cannabidiol oil care center", the premises specified in an
4 application for a cultivation and production facility license in which
5 the licensee is authorized to distribute processed hemp extract to
6 persons possessing a hemp extract registration card issued under
7 section 192.945;

8 (2) "Cultivation and production facility", the land and premises
9 specified in an application for a cultivation and production facility
10 license on which the licensee is authorized to grow, cultivate, process,
11 and possess hemp and hemp extract;

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

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

17 (5) "Grower", a nonprofit entity issued a cultivation and

18 production facility license by the department of agriculture that
19 produces hemp extract for the treatment of intractable epilepsy;

20 (6) "Hemp":

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

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

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

28 (b) Any cannabis sativa seed that is:

29 a. Part of a growing crop;

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

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

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

38 2. The department shall issue a cultivation and production
39 facility license to a nonprofit entity to grow or cultivate the cannabis
40 plant used to make hemp extract as defined in subsection 1 of section
41 195.207 or hemp on the entity's property if the entity has submitted to
42 the department an application as required by the department under
43 subsection 7 of this section, the entity meets all requirements of this
44 section and the department's rules, and there are fewer than two
45 licensed cultivation and production facilities operating in the state.

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

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

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

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

- 67 (1) Three-tenths of one percent on a dry weight basis; or
68 (2) The percent based on a dry weight basis determined by the
69 federal Controlled Substances Act under 21 U.S.C. Section 801 et seq.,
70 the director may detain, seize, or embargo the crop.

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

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

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

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

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

85 (5) Requirements that any hemp extract received from a legal
86 source be submitted to a testing facility designated by the department
87 to ensure that such hemp extract complies with the provisions of
88 section 195.207 and to ensure that the hemp extract does not contain
89 any pesticides. Any hemp extract that is not submitted for testing or
90 which after testing is found not to comply with the provisions of
91 section 195.207 shall not be distributed or used and shall be submitted

92 to the department for destruction; and

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

96 8. Any rule or portion of a rule, as that term is defined in section
97 536.010, that is created under the authority delegated in this section
98 shall become effective only if it complies with and is subject to all of
99 the provisions of chapter 536 and, if applicable, section 536.028. This
100 section and chapter 536 are nonseverable, and if any of the powers
101 vested with the general assembly under chapter 536 to review, to delay
102 the effective date, or to disapprove and annul a rule are subsequently
103 held unconstitutional, then the grant of rulemaking authority and any
104 rule proposed or adopted after the effective date of this section.

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

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

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

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