

FIRST REGULAR SESSION

# HOUSE BILL NO. 1096

## 100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DOGAN.

1901H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 579.055, RSMo, and to enact in lieu thereof six new sections relating to marijuana farming, with penalty provisions.

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

Section A. Section 579.055, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 261.305, 261.308, 261.311, 261.314, 261.317, and 579.055, to read as follows:

**261.305. As used in sections 261.305 to 261.317, the following terms mean:**

**(1) "Department", the department of agriculture;**

**(2) "Farming", using or cultivating land for the production of agricultural crops, livestock or livestock products, forest products, poultry or poultry products, milk or dairy products, or fruit or other horticultural products;**

**(3) "Marijuana", all parts of the plant of the genus Cannabis, whether growing; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. "Marijuana" shall not include industrial hemp, nor shall it include fiber produced from the stalks, oil, or cake made from the seeds of the plant; sterilized seed of the plant that is incapable of germination; or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.**

**261.308. Notwithstanding any other provision of law, if authorized by the county under section 261.311 and a license is obtained under section 261.317, it shall not be unlawful and shall not be an offense under Missouri law or be a basis for forfeiture of**

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.

4 assets under Missouri law for a person to grow, cultivate, or harvest marijuana on land  
5 used for farming.

261.311. Any county in this state may, after voter approval under this section, allow  
2 for the growing, cultivating, or harvesting of marijuana, as provided for under sections  
3 261.305 to 261.317. The question shall be submitted to the qualified voters of the county  
4 at a general, primary, or special election upon the motion of the governing body of the  
5 county or upon the petition of eight percent of the qualified voters of the county  
6 determined on the basis of the number of votes cast for governor in such county at the last  
7 gubernatorial election held prior to the filing of the petition. The elected officials of the  
8 county shall give legal notice as provided in chapter 115. If a majority of the votes cast on  
9 the question by the qualified voters voting thereon are in favor of allowing the growing,  
10 cultivating, or harvesting of marijuana, then such acts shall not be unlawful, as authorized  
11 in sections 261.305 to 261.317. If a majority of the votes cast on the question by the  
12 qualified voters voting thereon are opposed to the growing, cultivating, or harvesting of  
13 marijuana or if the county fails to submit the issue to the qualified voters, such acts shall  
14 be unlawful and constitute an offense within that county.

261.314. 1. Before July 1, 2021, the department shall adopt rules and regulations  
2 necessary for implementation of sections 261.305 to 261.317. Any rule or portion of a rule,  
3 as that term is defined in section 536.010, that is created under the authority delegated in  
4 this section shall become effective only if it complies with and is subject to all of the  
5 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536  
6 are nonseverable, and if any of the powers vested with the general assembly pursuant to  
7 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are  
8 subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
9 proposed or adopted after August 28, 2019, shall be invalid and void.

10 2. Such rules and regulations shall include:

11 (1) Procedures for the issuance, renewal, suspension, and revocation of a license to  
12 grow, cultivate, or harvest marijuana, with such procedures subject to all requirements of  
13 chapter 536;

14 (2) A schedule of application, licensing, and renewal fees, provided that the  
15 application fees shall not exceed five thousand dollars, adjusted annually for inflation,  
16 unless the department determines a greater fee is necessary to carry out its responsibilities  
17 under sections 261.305 to 311.317;

18 (3) Qualifications for licensure that are directly and demonstrably related to the  
19 growing, cultivating, or harvesting of marijuana;

20 (4) Security requirements for farms growing, cultivating, or harvesting marijuana;

21           **(5) Health and safety regulations and standards for the cultivation of marijuana**  
22 **as developed by the department of health and senior services; and**

23           **(6) Civil penalties for the failure to comply with regulations established under this**  
24 **section.**

**261.317. Each application for an annual license to grow, cultivate, or harvest**  
2 **marijuana shall be submitted to the department. The department shall:**

3           **(1) Begin accepting and processing applications on October 1, 2021;**

4           **(2) Immediately forward a copy of each application and half of the license**  
5 **application fee to the county in which the applicant desires to grow, cultivate, or harvest**  
6 **marijuana;**

7           **(3) Issue an annual license to the applicant between forty-five and ninety days after**  
8 **receipt of an application unless the department finds the applicant is not in compliance**  
9 **with rules and regulations enacted under section 261.314; provided that, if a county has**  
10 **enacted a numerical limit on the number of farms able to grow, cultivate, or harvest**  
11 **marijuana and a greater number of applicants seek licenses, the department shall solicit**  
12 **and consider input from the county as to the county's preference or preferences for**  
13 **licensure; and**

14           **(4) Upon denial of an application, notify the applicant in writing of the specific**  
15 **reason for denial.**

          579.055. 1. A person commits the offense of manufacture of a controlled substance if,  
2 except as authorized in this chapter or chapter 195, he or she:

3           (1) Knowingly manufactures, produces, or grows a controlled substance;

4           (2) Attempts to manufacture, produce, or grow a controlled substance; or

5           (3) Knowingly possesses a controlled substance with the intent to manufacture, produce,  
6 or grow any amount of controlled substance.

7           2. The offense of manufacturing or attempting to manufacture any amount of controlled  
8 substance, **except marijuana as provided under sections 261.305 to 261.317**, is a class B  
9 felony when committed within two thousand feet of the real property comprising a public or  
10 private elementary, vocational, or secondary school, community college, college, or university.  
11 It is a class A felony if a person has suffered serious physical injury or has died as a result of a  
12 fire or explosion started in an attempt by the defendant to produce methamphetamine.

13           3. The offense of manufacturing or attempting to manufacture any amount of a controlled  
14 substance, **except marijuana as provided under sections 261.305 to 261.317** or thirty-five  
15 grams or less of ~~[marijuana or]~~ synthetic cannabinoid, is a class C felony.

16           4. The offense of manufacturing thirty-five grams or less of ~~[marijuana or]~~ synthetic  
17 cannabinoid is a class E felony.