

FIRST REGULAR SESSION

HOUSE JOINT RESOLUTION NO. 58

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE POGUE.

2280H.011

DANA RADEMAN MILLER, Chief Clerk

JOINT RESOLUTION

Submitting to the qualified voters of Missouri an amendment repealing Section 1 of Article XIV of the Constitution of Missouri relating to medical marijuana.

Be it resolved by the House of Representatives, the Senate concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2020, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to Article XIV of the Constitution of the state of Missouri:

Section A. Section 1, Article XIV, Constitution of Missouri, is repealed, to read as follows:

~~[Section 1. 1. Purposes.~~

~~This section is intended to permit state-licensed physicians to recommend marijuana for medical purposes to patients with serious illnesses and medical conditions. The section allows patients with qualifying medical conditions the right to discuss freely with their physicians the possible benefits of medical marijuana use, the right of their physicians to provide professional advice concerning the same, and the right to use medical marijuana for treatment under the supervision of a physician.~~

~~This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the limited legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana~~

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.

14 for nonmedical purposes. The section does not allow for the public use of
15 marijuana and driving under the influence of marijuana.
16 ~~2. Definitions.~~
17 ~~(1) "Administer" means the direct application of marijuana to a~~
18 ~~qualifying patient by way of any of the following methods:~~
19 ~~(a) Ingestion of capsules, teas, oils, and other marijuana-infused products;~~
20 ~~(b) Vaporization or smoking of dried flowers, buds, plant material,~~
21 ~~extracts, or oils;~~
22 ~~(c) Application of ointments or balms;~~
23 ~~(d) Transdermal patches and suppositories;~~
24 ~~(e) Consuming marijuana-infused food products; or~~
25 ~~(f) Any other method recommended by a qualifying patient's physician.~~
26 ~~(2) "Department" means the department of health and senior services, or~~
27 ~~its successor agency.~~
28 ~~(3) "Entity" means a natural person, corporation, professional~~
29 ~~corporation, nonprofit corporation, cooperative corporation, unincorporated~~
30 ~~association, business trust, limited liability company, general or limited~~
31 ~~partnership, limited liability partnership, joint venture, or any other legal entity.~~
32 ~~(4) "Flowering plant" means a marijuana plant from the time it exhibits~~
33 ~~the first signs of sexual maturity through harvest.~~
34 ~~(5) "Marijuana" or "marihuana" means Cannabis indica, Cannabis sativa,~~
35 ~~and Cannabis ruderalis, hybrids of such species, and any other strains commonly~~
36 ~~understood within the scientific community to constitute marijuana, as well as~~
37 ~~resin extracted from the plant and marijuana-infused products. "Marijuana" or~~
38 ~~"marihuana" do not include industrial hemp containing a cropwide average~~
39 ~~tetrahydrocannabinol concentration that does not exceed three-tenths of one~~
40 ~~percent on a dry weight basis, or commodities or products manufactured from~~
41 ~~industrial hemp.~~
42 ~~(6) "Marijuana-infused products" means products that are infused with~~
43 ~~marijuana or an extract thereof and are intended for use or consumption other~~
44 ~~than by smoking, including, but not limited to, edible products, ointments,~~
45 ~~tinctures and concentrates.~~
46 ~~(7) "Medical marijuana cultivation facility" means a facility licensed by~~
47 ~~the department to acquire, cultivate, process, store, transport, and sell marijuana~~
48 ~~to a medical marijuana dispensary facility, medical marijuana testing facility, or~~
49 ~~to a medical marijuana-infused products manufacturing facility.~~
50 ~~(8) "Medical marijuana dispensary facility" means a facility licensed by~~
51 ~~the department to acquire, store, sell, transport, and deliver marijuana,~~
52 ~~marijuana-infused products, and drug paraphernalia used to administer marijuana~~
53 ~~as provided for in this section to a qualifying patient, a primary caregiver, another~~
54 ~~medical marijuana dispensary facility, a medical marijuana testing facility, or a~~
55 ~~medical marijuana-infused products manufacturing facility.~~

- 56 ————— (9) "Medical marijuana-infused products manufacturing facility" means
57 a facility licensed by the department to acquire, store, manufacture, transport, and
58 sell marijuana-infused products to a medical marijuana dispensary facility, a
59 medical marijuana testing facility, or to another medical marijuana-infused
60 products manufacturing facility.
- 61 ————— (10) "Medical marijuana testing facility" means a facility certified by the
62 department to acquire, test, certify, and transport marijuana.
- 63 ————— (11) "Medical use" means the production, possession, delivery,
64 distribution, transportation, or administration of marijuana or a marijuana-infused
65 product, or drug paraphernalia used to administer marijuana or a
66 marijuana-infused product, for the benefit of a qualifying patient to mitigate the
67 symptoms or effects of the patient's qualifying medical condition.
- 68 ————— (12) "Physician" means an individual who is licensed and in good
69 standing to practice medicine or osteopathy under Missouri law.
- 70 ————— (13) "Physician certification" means a document, whether handwritten,
71 electronic or in another commonly used format, signed by a physician and stating
72 that, in the physician's professional opinion, the patient suffers from a qualifying
73 medical condition.
- 74 ————— (14) "Primary caregiver" means an individual twenty-one years of age or
75 older who has significant responsibility for managing the well-being of a
76 qualifying patient and who is designated as such on the primary caregiver's
77 application for an identification card under this section or in other written
78 notification to the department.
- 79 ————— (15) "Qualifying medical condition" means the condition of, symptoms
80 related to, or side-effects from the treatment of:
- 81 ————— (a) Cancer;
82 ————— (b) Epilepsy;
83 ————— (c) Glaucoma;
84 ————— (d) Intractable migraines unresponsive to other treatment;
85 ————— (e) A chronic medical condition that causes severe, persistent pain or
86 persistent muscle spasms, including but not limited to those associated with
87 multiple sclerosis, seizures, Parkinson's disease, and Tourette's syndrome;
88 ————— (f) Debilitating psychiatric disorders, including, but not limited to,
89 posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;
90 ————— (g) Human immunodeficiency virus or acquired immune deficiency
91 syndrome;
92 ————— (h) A chronic medical condition that is normally treated with a
93 prescription medication that could lead to physical or psychological dependence,
94 when a physician determines that medical use of marijuana could be effective in
95 treating that condition and would serve as a safer alternative to the prescription
96 medication;
97 ————— (i) Any terminal illness; or

98 (j) ~~In the professional judgment of a physician, any other chronic,~~
99 ~~debilitating or other medical condition, including, but not limited to, hepatitis C,~~
100 ~~amyotrophic lateral sclerosis, inflammatory bowel disease, Crohn's disease,~~
101 ~~Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of~~
102 ~~Alzheimer's disease, cachexia, and wasting syndrome.~~

103 (16) ~~"Qualifying patient" means a Missouri resident diagnosed with at~~
104 ~~least one qualifying medical condition.~~

105 3. ~~Creating Patient Access to Medical Marijuana.~~

106 (1) ~~In carrying out the implementation of this section, the department~~
107 ~~shall have the authority to:~~

108 (a) ~~Grant or refuse state licenses and certifications for the cultivation,~~
109 ~~manufacture, dispensing, sale, testing, tracking, and transportation of marijuana~~
110 ~~for medical use as provided by law; suspend, fine, restrict, or revoke such~~
111 ~~licenses and certifications upon a violation of this section or a rule promulgated~~
112 ~~pursuant to this section; and impose any administrative penalty authorized by this~~
113 ~~section or any rule promulgated pursuant to this section.~~

114 (b) ~~Promulgate rules and emergency rules necessary for the proper~~
115 ~~regulation and control of the cultivation, manufacture, dispensing, and sale of~~
116 ~~marijuana for medical use and for the enforcement of this section so long as~~
117 ~~patient access is not restricted unreasonably and such rules are reasonably~~
118 ~~necessary for patient safety or to restrict access to only licensees and qualifying~~
119 ~~patients.~~

120 (c) ~~Develop such forms, certificates, licenses, identification cards, and~~
121 ~~applications as are necessary for, or reasonably related to, the administration of~~
122 ~~this section or any of the rules promulgated under this section;~~

123 (d) ~~Require a seed-to-sale tracking system that tracks medical marijuana~~
124 ~~from either the seed or immature plant stage until the medical marijuana or~~
125 ~~medical marijuana-infused product is sold to a qualifying patient or primary~~
126 ~~caregiver to ensure that no medical marijuana grown by a medical marijuana~~
127 ~~cultivation facility or manufactured by a medical marijuana-infused products~~
128 ~~manufacturing facility is sold or otherwise transferred except by a medical~~
129 ~~marijuana dispensary facility. The department shall certify, if possible, at least~~
130 ~~two commercially available systems to licensees as compliant with its tracking~~
131 ~~standards and issue standards for the creation or use of other systems by~~
132 ~~licensees.~~

133 (e) ~~Issue standards for the secure transportation of marijuana and~~
134 ~~marijuana-infused products. The department shall certify entities which~~
135 ~~demonstrate compliance with its transportation standards to transport marijuana~~
136 ~~and marijuana-infused products to a medical marijuana cultivation facility, a~~
137 ~~medical marijuana-infused products manufacturing facility, a medical marijuana~~
138 ~~dispensary facility, a medical marijuana testing facility, or another entity with a~~
139 ~~transportation certification. The department shall develop or adopt from any~~
140 ~~other governmental agency such safety and security standards as are reasonably~~

necessary for the transportation of marijuana. Any entity licensed or certified pursuant to this section shall be allowed to transport cannabis.

~~(f) The department may charge a fee not to exceed \$5,000 for any certification issued pursuant to this section.~~

~~(g) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the department under this section;~~

~~(h) Establish a system to numerically score competing medical marijuana licensee and certificate applicants, only in cases where more applicants apply than the minimum number of licenses or certificates as calculated by this section; which scoring shall be limited to an analysis of the following:~~

~~(i) the character, veracity, background, qualifications, and relevant experience of principal officers or managers;~~

~~(ii) the business plan proposed by the applicant, which in the case of cultivation facilities and dispensaries shall include the ability to maintain an adequate supply of marijuana, plans to ensure safety and security of qualifying patients and the community, procedures to be used to prevent diversion, and any plan for making marijuana available to low-income qualifying patients;~~

~~(iii) site security;~~

~~(iv) experience in a legal cannabis market;~~

~~(v) in the case of medical marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and/or potency and health care industry experience;~~

~~(vi) the potential for positive economic impact in the site community;~~

~~(vii) in the case of medical marijuana cultivation facilities, capacity or experience with agriculture, horticulture, and health care;~~

~~(viii) in the case of medical marijuana dispensary facilities, capacity or experience with health care, the suitability of the proposed location, and its accessibility for patients;~~

~~(ix) in the case of medical marijuana-infused products manufacturing facilities, capacity or experience with food and beverage manufacturing; and~~

~~(x) maintaining competitiveness in the marijuana for medical use marketplace.~~

~~In ranking applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors. The department shall lift or ease any limit on the number of licensees or certificate holders in order to meet the demand for marijuana for medical use by qualifying patients.~~

~~(2) The department shall issue any rules or emergency rules necessary for the implementation and enforcement of this section and to ensure the right to, availability, and safe use of marijuana for medical use by qualifying patients. In developing such rules or emergency rules, the department may consult with other public agencies. In addition to any other rules or emergency rules necessary to~~

184 ~~carry out the mandates of this section, the department may issue rules or~~
185 ~~emergency rules relating to the following subjects:~~

186 ~~———— (a) Compliance with, enforcement of, or violation of any provision of this~~
187 ~~section or any rule issued pursuant to this section, including procedures and~~
188 ~~grounds for denying, suspending, fining, restricting, or revoking a state license~~
189 ~~or certification issued pursuant to this section;~~

190 ~~———— (b) Specifications of duties of officers and employees of the department;~~

191 ~~———— (c) Instructions or guidance for local authorities and law enforcement~~
192 ~~officers;~~

193 ~~———— (d) Requirements for inspections, investigations, searches, seizures, and~~
194 ~~such additional enforcement activities as may become necessary from time to~~
195 ~~time;~~

196 ~~———— (e) Creation of a range of administrative penalties for use by the~~
197 ~~department;~~

198 ~~———— (f) Prohibition of misrepresentation and unfair practices;~~

199 ~~———— (g) Control of informational and product displays on licensed premises~~
200 ~~provided that the rules may not prevent or unreasonably restrict appropriate signs~~
201 ~~on the property of the medical marijuana dispensary facility, product display and~~
202 ~~examination by the qualifying patient and/or primary caregiver, listings in~~
203 ~~business directories including phone books, listings in marijuana-related or~~
204 ~~medical publications, or the sponsorship of health or not for profit charity or~~
205 ~~advocacy events;~~

206 ~~———— (h) Development of individual identification cards for owners, officers,~~
207 ~~managers, contractors, employees, and other support staff of entities licensed or~~
208 ~~certified pursuant to this section, including a fingerprint-based federal and state~~
209 ~~criminal record check in accordance with U.S. Public Law 92-544, or its~~
210 ~~successor provisions, as may be required by the department prior to issuing a card~~
211 ~~and procedures to ensure that cards for new applicants are issued within fourteen~~
212 ~~days. Applicants licensed pursuant to this section shall submit fingerprints to the~~
213 ~~Missouri state highway patrol for the purpose of conducting a state and federal~~
214 ~~fingerprint-based criminal background check. The Missouri state highway patrol,~~
215 ~~if necessary, shall forward the fingerprints to the Federal Bureau of Investigation~~
216 ~~(FBI) for the purpose of conducting a fingerprint-based criminal background~~
217 ~~check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid~~
218 ~~pursuant to 43.530;~~

219 ~~———— (i) Security requirements for any premises licensed or certified pursuant~~
220 ~~to this section, including, at a minimum, lighting, physical security, video, alarm~~
221 ~~requirements, and other minimum procedures for internal control as deemed~~
222 ~~necessary by the department to properly administer and enforce the provisions of~~
223 ~~this section, including reporting requirements for changes, alterations, or~~
224 ~~modifications to the premises;~~

225 ~~———— (j) Regulation of the storage of, warehouses for, and transportation of~~
226 ~~marijuana for medical use;~~

227 ~~————— (k) Sanitary requirements for, including, but not limited to, the~~
228 ~~preparation of medical marijuana-infused products;~~
229 ~~————— (l) The specification of acceptable forms of picture identification that a~~
230 ~~medical marijuana dispensary facility may accept when verifying a sale;~~
231 ~~————— (m) Labeling and packaging standards;~~
232 ~~————— (n) Records to be kept by licensees and the required availability of the~~
233 ~~records;~~
234 ~~————— (o) State licensing procedures, including procedures for renewals,~~
235 ~~reinstatements, initial licenses, and the payment of licensing fees;~~
236 ~~————— (p) The reporting and transmittal of tax payments;~~
237 ~~————— (q) Authorization for the department of revenue to have access to~~
238 ~~licensing information to ensure tax payment and the effective administration of~~
239 ~~this section; and~~
240 ~~————— (r) Such other matters as are necessary for the fair, impartial, stringent,~~
241 ~~and comprehensive administration of this section.~~
242 ~~————— (3) The department shall issue rules or emergency rules for a medical~~
243 ~~marijuana and medical marijuana-infused products independent testing and~~
244 ~~certification program for medical marijuana licensees and requiring licensees to~~
245 ~~test medical marijuana using one or more impartial, independent laboratories to~~
246 ~~ensure, at a minimum, that products sold for human consumption do not contain~~
247 ~~contaminants that are injurious to health, to ensure correct labeling and measure~~
248 ~~potency. The department shall not require any medical marijuana or medical~~
249 ~~marijuana-infused products to be tested more than once prior to sale.~~
250 ~~————— (4) The department shall issue rules or emergency rules to provide for the~~
251 ~~certification of and standards for medical marijuana testing facilities, including~~
252 ~~the requirements for equipment and qualifications for personnel, but shall not~~
253 ~~require certificate holders to have any federal agency licensing or have any~~
254 ~~relationship with a federally licensed testing facility. The department shall~~
255 ~~certify, if possible, at least two entities as medical marijuana testing facilities. No~~
256 ~~medical marijuana testing facility shall be owned by an entity under substantially~~
257 ~~common control, ownership, or management as a medical marijuana cultivation~~
258 ~~facility, medical marijuana-infused product manufacturing facility, or medical~~
259 ~~marijuana dispensary facility.~~
260 ~~————— (5) The department shall maintain the confidentiality of reports or other~~
261 ~~information obtained from an applicant or licensee containing any individualized~~
262 ~~data, information, or records related to the licensee or its operation, including~~
263 ~~sales information, financial records, tax returns, credit reports, cultivation~~
264 ~~information, testing results, and security information and plans, or revealing any~~
265 ~~patient information, or any other records that are exempt from public inspection~~
266 ~~pursuant to state or federal law. Such reports or other information may be used~~
267 ~~only for a purpose authorized by this section. Any information released related~~
268 ~~to patients may be used only for a purpose authorized by federal law and this~~
269 ~~section, including verifying that a person who presented a patient identification~~

card to a state or local law enforcement official is lawfully in possession of such card.

~~(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.~~

~~(7) Within one hundred eighty days of December 6, 2018, the department shall make available to the public application forms and application instructions for qualifying patient, qualifying patient cultivation, and primary caregiver identification cards. Within two hundred ten days of December 6, 2018, the department shall begin accepting applications for such identification cards.~~

~~(8) An entity may apply to the department for and obtain one or more licenses to grow marijuana as a medical marijuana cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single facility. Each indoor facility utilizing artificial lighting may be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting may be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting may be limited by the department, at the election of the licensee, to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of ten thousand dollars per license application or renewal for all applicants filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of five thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of twenty-five thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana cultivation facility licenses shall be issued to any entity under substantially common control, ownership, or management.~~

~~(9) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana dispensary facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal~~

thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than five medical marijuana dispensary facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(10) An entity may apply to the department for and obtain one or more licenses to operate a medical marijuana-infused products manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. The department shall charge each applicant a nonrefundable fee of six thousand dollars per license application or renewal for each applicant filing an application within three years of December 6, 2018, and shall charge each applicant a nonrefundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of ten thousand dollars per facility license. Application and license fees shall be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency. No more than three medical marijuana-infused products manufacturing facility licenses shall be issued to any entity under substantially common control, ownership, or management.

(11) Any applicant for a license authorized by this section may prefile their application fee with the department beginning 30 days after December 6, 2018.

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to six flowering marijuana plants for the exclusive use of that qualifying patient. The card shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of one hundred dollars, with such rate to be increased or decreased each year by the percentage of increase or decrease from the end of the previous calendar year of the Consumer Price Index, or successor index as published by the U.S. Department of Labor, or its successor agency.

(13) The department may set a limit on the amount of marijuana that may be purchased by or on behalf of a single qualifying patient in a thirty-day period, provided that limit is not less than four ounces of dried, unprocessed marijuana, or its equivalent. Any such limit shall not apply to a qualifying patient with written certification from two independent physicians that there are compelling reasons why the qualifying patient needs a greater amount than the limit established by the department.

356 ~~(14) The department may set a limit on the amount of marijuana that may~~
357 ~~be possessed by or on behalf of each qualifying patient, provided that limit is not~~
358 ~~less than a sixty-day supply of dried, unprocessed marijuana, or its equivalent.~~
359 ~~A primary caregiver may possess a separate legal limit for each qualifying patient~~
360 ~~under their care and a separate legal limit for themselves if they are a qualifying~~
361 ~~patient. Qualifying patients cultivating marijuana for medical use may possess~~
362 ~~up to a ninety-day supply, so long as the supply remains on property under their~~
363 ~~control. Any such limit shall not apply to a qualifying patient with written~~
364 ~~certification from two independent physicians that there are compelling reasons~~
365 ~~for additional amounts. Possession of between the legal limit and up to twice the~~
366 ~~legal limit shall subject the possessor to department sanctions, including an~~
367 ~~administrative penalty and loss of their patient identification card for up to a year.~~
368 ~~Purposefully possessing amounts in excess of twice the legal limit shall be~~
369 ~~punishable by imprisonment of up to one year and a fine of up to two thousand~~
370 ~~dollars.~~

371 ~~(15) The department may restrict the aggregate number of licenses~~
372 ~~granted for medical marijuana cultivation facilities, provided, however, that the~~
373 ~~number may not be limited to fewer than one license per every one hundred~~
374 ~~thousand inhabitants, or any portion thereof, of the state of Missouri, according~~
375 ~~to the most recent census of the United States. A decrease in the number of~~
376 ~~inhabitants in the state of Missouri shall have no impact.~~

377 ~~(16) The department may restrict the aggregate number of licenses~~
378 ~~granted for marijuana-infused products manufacturing facilities, provided,~~
379 ~~however, that the number may not be limited to fewer than one license per every~~
380 ~~seventy thousand inhabitants, or any portion thereof, of the state of Missouri,~~
381 ~~according to the most recent census of the United States. A decrease in the~~
382 ~~number of inhabitants in the state of Missouri shall have no impact.~~

383 ~~(17) The department may restrict the aggregate number of licenses~~
384 ~~granted for medical marijuana dispensary facilities, provided, however, that the~~
385 ~~number may not be limited to fewer than twenty-four licenses in each United~~
386 ~~States congressional district in the state of Missouri pursuant to the map of each~~
387 ~~of the eight congressional districts as drawn and effective on December 6, 2018.~~
388 ~~Future changes to the boundaries of or the number of congressional districts shall~~
389 ~~have no impact.~~

390 ~~(18) The department shall begin accepting license and certification~~
391 ~~applications for medical marijuana dispensary facilities, medical marijuana~~
392 ~~testing facilities, medical marijuana cultivation facilities, medical~~
393 ~~marijuana-infused products manufacturing facilities, seed-to-sale tracking~~
394 ~~systems, and for transportation of marijuana no later than two hundred forty days~~
395 ~~after December 6, 2018. Applications for licenses and certifications under this~~
396 ~~section shall be approved or denied by the department no later than one hundred~~
397 ~~fifty days after their submission. If the department fails to carry out its~~
398 ~~nondiscretionary duty to approve or deny an application within one hundred fifty~~

399 days of submission, an applicant may immediately seek a court order compelling
400 the department to approve or deny the application.

401 ~~————— (19) Qualifying patients under this section shall obtain and annually~~
402 ~~renew an identification card or cards from the department. The department shall~~
403 ~~charge a fee of twenty-five dollars per year per card with such fee to be increased~~
404 ~~or decreased each year by the percentage of increase or decrease from the end of~~
405 ~~the previous calendar year of the Consumer Price Index, or successor index as~~
406 ~~published by the U.S. Department of Labor or its successor agency. Upon~~
407 ~~receiving an application for a qualifying patient identification card or qualifying~~
408 ~~patient cultivation identification card, the department shall, within thirty days,~~
409 ~~either issue the card or provide a written explanation for its denial. If the~~
410 ~~department fails to deny and fails to issue a card to an eligible qualifying patient~~
411 ~~within thirty days, then their physician certification shall serve as their qualifying~~
412 ~~patient identification card or qualifying patient cultivation identification card for~~
413 ~~up to one year from the date of physician certification. All initial applications for~~
414 ~~or renewals of a qualifying patient identification card or qualifying patient~~
415 ~~cultivation identification card shall be accompanied by a physician certification~~
416 ~~that is less than thirty days old.~~

417 ~~————— (20) Primary caregivers under this section shall obtain and annually~~
418 ~~renew an identification card from the department. The department shall charge~~
419 ~~a fee of twenty-five dollars per year, with such fee to be increased or decreased~~
420 ~~each year by the percentage of increase or decrease from the end of the previous~~
421 ~~calendar year of the Consumer Price Index, or successor index as published by~~
422 ~~the U.S. Department of Labor, or its successor agency. Upon receiving an~~
423 ~~application for a primary caregiver identification card, the department shall,~~
424 ~~within thirty days, either issue the card or provide a written explanation for its~~
425 ~~denial.~~

426 ~~————— (21) All marijuana for medical use sold in Missouri shall be cultivated~~
427 ~~in a licensed medical marijuana cultivation facility located in Missouri.~~

428 ~~————— (22) All marijuana-infused products for medical use sold in the state of~~
429 ~~Missouri shall be manufactured in a medical marijuana-infused products~~
430 ~~manufacturing facility.~~

431 ~~————— (23) The denial of a license, license renewal, or identification card by the~~
432 ~~department shall be appealable to the administrative hearing commission, or its~~
433 ~~successor entity. Following the exhaustion of administrative review, denial of~~
434 ~~a license, license renewal, or identification card by the department shall be~~
435 ~~subject to judicial review as provided by law.~~

436 ~~————— (24) No elected official shall interfere directly or indirectly with the~~
437 ~~department's obligations and activities under this section.~~

438 ~~————— (25) The department shall not have the authority to apply or enforce any~~
439 ~~rule or regulation that would impose an undue burden on any one or more~~
440 ~~licensees or certificate holders, any qualifying patients, or act to undermine the~~
441 ~~purposes of this section.~~

~~4. Taxation and Reporting.~~

~~(1) A tax is levied upon the retail sale of marijuana for medical use sold at medical marijuana dispensary facilities within the state. The tax shall be at a rate of four percent of the retail price. The tax shall be collected by each licensed medical marijuana dispensary facility and paid to the department of revenue. After retaining no more than five percent for its actual collection costs, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the Missouri veterans' health and care fund. Licensed entities making retail sales within the state shall be allowed approved credit for returns provided the tax was paid on the returned item and the purchaser was given the refund or credit.~~

~~(2) There is hereby created in the state treasury the "Missouri Veterans' Health and Care Fund", which shall consist of taxes and fees collected under this section. The state treasurer shall be custodian of the fund, and he or she shall invest monies in the fund in the same manner as other funds are invested. Any interest and monies earned on such investments shall be credited to the fund. Notwithstanding any other provision of law, any monies remaining in the fund at the end of a biennium shall not revert to the credit of the general revenue fund. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the department in advance of it receiving annual application, licensing, and tax revenue, with any such transfers to be repaid as provided by law. The fund shall be a dedicated fund and shall stand appropriated without further legislative action as follows:~~

~~(a) First, to the department, an amount necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;~~

~~(b) Next, the remainder of such funds shall be transferred to the Missouri veterans commission for health and care services for military veterans, including the following purposes: operations, maintenance and capital improvements of the Missouri veterans homes, the Missouri service officer's program, and other services for veterans approved by the commission, including, but not limited to, health care services, mental health services, drug rehabilitation services, housing assistance, job training, tuition assistance, and housing assistance to prevent homelessness. The Missouri veterans commission shall contract with other public agencies for the delivery of services beyond its expertise.~~

~~(c) All monies from the taxes authorized under this subsection shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.~~

~~(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by~~

the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

(4) The tax levied pursuant to this subsection is separate from, and in addition to, any general state and local sales and use taxes that apply to retail sales, which shall continue to be collected and distributed as provided by general law.

(5) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of marijuana for medical use.

(6) The fees and taxes provided for in this Article XIV, Section 1 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(7) The unexpended balance existing in the fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

5. Additional Patient, Physician, Caregiver and Provider Protections:

(1) Except as provided in this section, the possession of marijuana in quantities less than the limits of this section, or established by the department, and transportation of marijuana from a medical marijuana dispensary facility to the qualifying patient's residence shall not subject the possessor to arrest, criminal or civil liability, or sanctions under Missouri law, provided that the possessor produces on demand to the appropriate authority a valid qualifying patient identification card; a valid qualifying patient cultivation identification card; a valid physician certification while making application for an identification card; or a valid primary caregiver identification card. Production of the respective equivalent identification card or authorization issued by another state or political subdivision of another state shall also meet the requirements of this subdivision.

(2) No patient shall be denied access to or priority for an organ transplant because they hold a qualifying patient identification card or use marijuana for medical use.

(3) A physician shall not be subject to criminal or civil liability or sanctions under Missouri law or discipline by the Missouri state board of registration for the healing arts, or its successor agency, for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or issuing a physician certification to a patient diagnosed with a qualifying medical condition in a manner consistent with this section and legal standards of professional conduct.

(4) A health care provider shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or

licensing board or commission for owning, operating, investing in, being employed by, or contracting with any entity licensed or certified pursuant to this section or providing health care services that involve the medical use of marijuana consistent with this section and legal standards of professional conduct.

(5) A medical marijuana testing facility shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to the medical use of marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(6) A health care provider shall not be subject to mandatory reporting requirements for the medical use of marijuana by nonemancipated qualifying patients under eighteen years of age in a manner consistent with this section and with consent of a parent or guardian.

(7) A primary caregiver shall not be subject to criminal or civil liability or sanctions under Missouri law for purchasing, transporting, or administering marijuana for medical use to a qualifying patient or participating in the patient cultivation of up to six flowering marijuana plants per patient in a manner consistent with this section and generally established legal standards of personal or professional conduct.

(8) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for owning, operating, investing in, being employed by, contracting with, or providing legal assistance to prospective or licensed medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana dispensary facilities, medical marijuana-infused products manufacturing facilities, qualifying patients, primary caregivers, physicians, health care providers or others related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(9) Actions and conduct by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities licensed or registered with the department, or their employees or agents, as permitted by this section and in compliance with department regulations and other standards of legal conduct, shall not be subject to criminal or civil liability or sanctions under Missouri law, except as provided for by this section.

(10) Nothing in this section shall provide immunity for negligence, either common law or statutorily created, nor criminal immunities for operating a vehicle, aircraft, dangerous device, or navigating a boat under the influence of marijuana.

(11) It is the public policy of the state of Missouri that contracts related to marijuana for medical use that are entered into by qualifying patients, primary

caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities and those who allow property to be used by those entities, should be enforceable. It is the public policy of the state of Missouri that no contract entered into by qualifying patients, primary caregivers, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or by a person who allows property to be used for activities that are exempt from state criminal penalties by this section, shall be unenforceable on the basis that activities related to medical marijuana may be prohibited by federal law.

6. Legislation.

Nothing in this section shall limit the general assembly from enacting laws consistent with this section, or otherwise effectuating the patient rights of this section. The legislature shall not enact laws that hinder the right of qualifying patients to access marijuana for medical use as granted by this section.

7. Additional Provisions:

(1) Nothing in this section permits a person to:

(a) Consume marijuana for medical use in a jail or correctional facility;

(b) Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice; or

(c) Operate, navigate, or be in actual physical control of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; or

(d) Bring a claim against any employer, former employer, or prospective employer for wrongful discharge, discrimination, or any similar cause of action or remedy, based on the employer, former employer, or prospective employer prohibiting the employee, former employee, or prospective employee from being under the influence of marijuana while at work or disciplining the employee or former employee, up to and including termination from employment, for working or attempting to work while under the influence of marijuana.

(2) No medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility, or entity with a transportation certification shall be owned, in whole or in part, or have as an officer, director, board member, manager, or employee, any individual with a disqualifying felony offense. A "disqualifying felony offense" is a violation of, and conviction or guilty plea to, state or federal law that is, or would have been, a felony under Missouri law, regardless of the sentence imposed, unless the department determines that:

(a) The person's conviction was for the medical use of marijuana or assisting in the medical use of marijuana; or

(b) The person's conviction was for a nonviolent crime for which he or she was not incarcerated and that is more than five years old; or

614 ~~————— (c) More than five years have passed since the person was released from~~
615 ~~parole or probation, and he or she has not been convicted of any subsequent~~
616 ~~criminal offenses.~~

617 ~~————— The department may consult with and rely on the records, advice and~~
618 ~~recommendations of the attorney general and the department of public safety, or~~
619 ~~their successor entities, in applying this subdivision.~~

620 ~~————— (3) All medical marijuana cultivation facility, medical marijuana~~
621 ~~dispensary facility, and medical marijuana-infused products manufacturing~~
622 ~~facility licenses, entities with medical marijuana testing facility certifications, and~~
623 ~~entities with transportation certifications shall be held by entities that are majority~~
624 ~~owned by natural persons who have been citizens of the state of Missouri for at~~
625 ~~least one year prior to the application for such license or certification.~~
626 ~~Notwithstanding the foregoing, entities outside the state of Missouri may own a~~
627 ~~minority stake in such entities.~~

628 ~~————— (4) No medical marijuana cultivation facility, medical marijuana~~
629 ~~dispensary facility, or medical marijuana-infused products manufacturing facility~~
630 ~~shall manufacture, package or label marijuana or marijuana-infused products in~~
631 ~~a false or misleading manner. No person shall sell any product in a manner~~
632 ~~designed to cause confusion between a marijuana or marijuana-infused product~~
633 ~~and any product not containing marijuana. A violation of this subdivision shall~~
634 ~~be punishable by an appropriate and proportional department sanction, up to and~~
635 ~~including loss of license.~~

636 ~~————— (5) All edible marijuana-infused products shall be sold in individual,~~
637 ~~child-resistant containers that are labeled with dosage amounts, instructions for~~
638 ~~use, and estimated length of effectiveness. All marijuana and marijuana-infused~~
639 ~~products shall be sold in containers clearly and conspicuously labeled, in a font~~
640 ~~size at least as large as the largest other font size used on the package, as~~
641 ~~containing "Marijuana", or a "Marijuana-Infused Product". Violation of this~~
642 ~~prohibition shall subject the violator to department sanctions, including an~~
643 ~~administrative penalty.~~

644 ~~————— (6) No individual shall serve as the primary caregiver for more than three~~
645 ~~qualifying patients.~~

646 ~~————— (7) No qualifying patient shall consume marijuana for medical use in a~~
647 ~~public place, unless provided by law. Violation of this prohibition shall subject~~
648 ~~the violator to sanctions as provided by general law.~~

649 ~~————— (8) No person shall extract resins from marijuana using dangerous~~
650 ~~materials or combustible gases without a medical marijuana-infused products~~
651 ~~manufacturing facility license. Violation of this prohibition shall subject the~~
652 ~~violator to department sanctions, including an administrative penalty and, if~~
653 ~~applicable, loss of their identification card, certificate, or license for up to one~~
654 ~~year.~~

655 ~~————— (9) All qualifying patient cultivation shall take place in an enclosed,~~
656 ~~locked facility that is equipped with security devices that permit access only by~~

the qualifying patient or by such patient's primary caregiver. Two qualifying patients, who both hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.

(10) No medical marijuana cultivation facility, medical marijuana dispensary facility, medical marijuana-infused products manufacturing facility, medical marijuana testing facility, or entity with a transportation certification shall assign, sell, give, lease, sublicense, or otherwise transfer its license or certificate to any other entity without the express consent of the department, not to be unreasonably withheld.

(11) Unless allowed by the local government, no new medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana dispensary facility, or medical marijuana-infused products manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. No local government shall prohibit medical marijuana cultivation facilities, medical marijuana testing facilities, medical marijuana-infused products manufacturing facilities, or medical marijuana dispensary facilities, or entities with a transportation certification either expressly or through the enactment of ordinances or regulations that make their operation unduly burdensome in the jurisdiction. However, local governments may enact ordinances or regulations not in conflict with this section, or with regulations enacted pursuant to this section, governing the time, place, and manner of operation of such facilities in the locality. A local government may establish civil penalties for violation of an ordinance or regulations governing the time, place, and manner of operation of a medical marijuana cultivation facility, medical marijuana testing facility, medical marijuana-infused products manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality.

(12) Unless superseded by federal law or an amendment to this Constitution, a physician shall not certify a qualifying condition for a patient by any means other than providing a physician certification for the patient, whether handwritten, electronic, or in another commonly used format. A qualifying patient must obtain a new physician certification at least annually.

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the

700 ~~written consent of the qualifying patient's parent or legal guardian. Such card~~
701 ~~shall be issued to one of the parents or guardians and not directly to the patient.~~
702 ~~Only a parent or guardian may serve as a primary caregiver for a nonemancipated~~
703 ~~qualifying patient under the age of eighteen. Only the qualifying patient's parent~~
704 ~~or guardian shall purchase or possess medical marijuana for a nonemancipated~~
705 ~~qualifying patient under the age of eighteen. A parent or guardian shall supervise~~
706 ~~the administration of medical marijuana to a nonemancipated qualifying patient~~
707 ~~under the age of eighteen.~~

708 ~~————— (14) Nothing in this section shall be construed as mandating health~~
709 ~~insurance coverage of medical marijuana for qualifying patient use.~~

710 ~~————— (15) Real and personal property used in the cultivation, manufacture,~~
711 ~~transport, testing, distribution, sale, and administration of marijuana for medical~~
712 ~~use or for activities otherwise in compliance with this section shall not be subject~~
713 ~~to asset forfeiture solely because of that use.~~

714 ~~————— 8. Severability.~~

715 ~~————— The provisions of this section are severable, and if any clause, sentence,~~
716 ~~paragraph or section of this measure, or an application thereof, is adjudged~~
717 ~~invalid by any court of competent jurisdiction, the other provisions shall continue~~
718 ~~to be in effect to the fullest extent possible.~~

719 ~~————— 9. Effective Date.~~

720 ~~————— The provisions of this section shall become effective on December 6,~~
721 ~~2018.]~~

722

Section B. Under chapter 116, RSMo, and other applicable constitutional provisions and
2 laws of this state allowing the general assembly to adopt ballot language for the submission of
3 a joint resolution to the voters of this state, the official ballot title of this legislation shall be as
4 follows:

5 "Shall the Constitution of Missouri be amended to repeal Section 1, Article XIV of the
6 Constitution of Missouri, which established a right to access medical marijuana?".

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