

HB 2704 -- CANNABIS FREEDOM ACT

SPONSOR: Hicks

This bill establishes the "Cannabis Freedom Act".

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

For all tax years beginning on or after January 1, 2023, in addition to other deductions allowed by law, a qualified taxpayer, as defined under the bill, may deduct from their Missouri adjusted gross income an amount equal to the amount spent in a given year on a license application fee required under medical cannabis provisions of the Constitution of Missouri. The Department of Revenue shall promulgate all necessary rules and regulations for the administration of this section. This deduction shall sunset six years after the effective date of this bill (Section 143.2200).

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

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

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

that only employees, contractors, owners, and volunteers of medical marijuana facilities or facilities subject to the Cannabis Enforcement Authority shall be subject to such fingerprinting. This bill provides a definition of contractor for purposes of the provisions of this section (Section 195.815).

This section establishes the "Cannabinoid Product Labeling Act" and provides that the General Assembly occupies and preempts the field of cannabinoid oil products regulation to the full exclusion of any order, ordinance, or regulation of any political subdivision of the state, with any existing or future orders, ordinances, or regulations becoming void. The bill shall not apply to any hemp extract for which a registration card has been issued under Sections 192.945 to 192.947 or Section 195.207.

This section requires cannabinoid oil products to be labeled and include necessary information, as described in the section. This section specifies that a dealer must not prepare or sell a cannabinoid oil product that is adulterated with a dangerous substance and a such product must only be sold to a person over the age of 21 (Section 196.1173).

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

These provisions legalize the possession and consumption of marijuana for personal use, allow for anyone 21 years of age or older to cultivate and possess no more than 12 mature, flowering marijuana plants for noncommercial use, and allows for the sale of marijuana products to consumers 21 years of age or older. The use or possession of marijuana shall not impede a person's legal right to possess a firearm. It shall be lawful for a person 21 years of age or older to transfer or gift marijuana to another adult.

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

Asset or civil forfeiture shall no longer be used in the state in

association with legal marijuana cultivation, use, sale, or possession.

A tax shall be levied on the sale of marijuana and marijuana products at a rate not to exceed 12%. All tax revenues collected shall be deposited into the "Cannabis Freedom Fund", as established under the bill, and used to pay for costs associated with the implementation, administration, and enforcement of the provisions of these sections. Excess moneys remaining in the Fund shall be divided equally between teachers' salaries, first responders' pensions, and the Missouri Veterans Commission. These provisions shall not prohibit any state or local sales taxes. Any sale of marijuana for medical use shall not be subject to the tax established herein.

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

These provisions establish the marijuana business license, which includes annual licenses for the following categories: marijuana commercial growers, marijuana processors, marijuana retailers, marijuana sellers, and marijuana transporters. Grower, processor, retailer, and transporter prospective licensees must first apply for a temporary marijuana business license prior to issuance of an annual license. Such temporary license shall be valid for 180 days, subject to extension, and shall not obligate the Authority to issue an annual license.

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

In addition to these general requirements, these provisions also provide for additional requirements for applicants for temporary licenses or renewal of annual licenses. A licensed commercial grower shall sell only at the wholesale level to a licensed retailer, grower, or processor. Licensed commercial growers and processors shall complete and submit monthly yield and sales reports to the Authority, as described in the bill. The Authority

shall have oversight and auditing responsibility to ensure all marijuana grown by a licensed commercial grower is accounted for and all marijuana processors producing products with marijuana as an additive are in compliance with the requirements of the bill.

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

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

A marijuana transporter license shall allow the holder to transport marijuana from a Missouri-licensed marijuana retailer, licensed commercial grower facility, or licensed processor facility to a Missouri-licensed marijuana retailer, licensed commercial grower facility, or licensed processing facility. All marijuana or marijuana products shall be transported in a locked container labeled as "Marijuana or Derivative". No business may possess, sell, or transfer marijuana without a valid transporter license. A transporter licensee may contract with multiple marijuana businesses. A transporter licensee shall use the seed-to-sale tracking system promulgated by the Authority. The Authority shall issue transporter agent licenses to individual agents, employees, and owners of a transporter license in order for that individual to qualify to transport marijuana. Such agent license shall be subject to an annual fee of \$25. The transportation and inventory tracking of marijuana and marijuana products shall comply with requirements as provided for in the bill.

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

An entity holding a medical marijuana business license issued by the Department of Health and Senior Services may only apply for a marijuana business license under the provisions of this bill after

August 28, 2024. Thereafter, an entity may concurrently submit an application to obtain a license for a medical marijuana dispensary facility and license for a marijuana business.

The Authority shall by rule create a statewide hospitality business license allowing a business, as described in the bill, to sell marijuana or marijuana products at a private event. The Authority shall maintain a list of businesses licensed under these provisions. Such businesses shall submit an application to the Authority with a fee in a form and manner as determined by the Authority. This license shall be valid for two years. Any business that does not have a hospitality business license that knowingly allows guests to consume marijuana on its premises, or a licensed hospitality business that does not comply with the requirements under these provisions, shall be subject to fines and penalties as provided for in the bill.

If marijuana is decriminalized on a federal level, any licensed marijuana business in the state may engage in interstate commerce, and the state may enter into any interstate compact or agreement relating to marijuana (Sections 196.3000 to 196.0348).

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

Furthermore, banks, trust companies, associations, and credit unions are permitted to receive the savings of, make loans to, deposit the funds of, and invest funds of customers who operate as a facility licensed under the provisions of this bill or under Article XIV, Section 1 of the Constitution of Missouri. No such institution acting pursuant to this bill shall be liable under state law for contracting with such facilities (Sections 362.105, 369.144, 369.326, 370.064, and 370.070).

A family court participant shall not be required to refrain from using marijuana or consuming marijuana in accordance with the provisions of this bill or in accordance with Article XIV, Section 1 of the Constitution of Missouri as a term or condition of successful completion of the family court program. A family court participant who is a qualified patient with a valid medical marijuana certification or who uses or consumes marijuana in accordance with the provisions of this bill shall not be in violation of the terms or conditions of the family court on the basis of his or her participation in Missouri's medical marijuana program (Section 487.205).

The odor of marijuana alone shall not provide a law enforcement officer with probable cause to conduct a warrantless search of a motor vehicle, home, or other private property (Section 544.186).

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

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

This bill contains penalty provisions.