

HOUSE BILL NO. 644

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FRANCIS.

1527H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 192.945, 192.947, 195.207, and 261.265, RSMo, relating to hemp extract.

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

Section A. Sections 192.945, 192.947, 195.207, and 261.265, RSMo, are repealed, to
2 read as follows:

- 3 ~~[192.945. 1. As used in this section, the following terms shall mean:~~
4 ~~(1) "Department", the department of health and senior services;~~
5 ~~(2) "Hemp extract", as such term is defined in section 195.207;~~
6 ~~(3) "Hemp extract registration card", a card issued by the department~~
7 ~~under this section;~~
8 ~~(4) "Intractable epilepsy", epilepsy that as determined by a neurologist~~
9 ~~does not respond to three or more treatment options overseen by the~~
10 ~~neurologist;~~
11 ~~(5) "Neurologist", a physician who is licensed under chapter 334 and~~
12 ~~board certified in neurology;~~
13 ~~(6) "Parent", a parent or legal guardian of a minor who is responsible~~
14 ~~for the minor's medical care;~~
15 ~~(7) "Registrant", an individual to whom the department issues a hemp~~
16 ~~extract registration card under this section.~~
17 ~~2. The department shall issue a hemp extract registration card to an~~
18 ~~individual who:~~
19 ~~(1) Is eighteen years of age or older;~~
20 ~~(2) Is a Missouri resident;~~
21 ~~(3) Provides the department with a statement signed by a neurologist~~
22 ~~that:~~
 ~~(a) Indicates that the individual suffers from intractable epilepsy and~~
 ~~may benefit from treatment with hemp extract; and~~

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.

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

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

27 ~~(5) Submits an application to the department on a form created by the~~
28 ~~department that contains:~~

29 ~~(a) The individual's name and address;~~

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

31 ~~(c) Any other information the department considers necessary to~~
32 ~~implement the provisions of this section.~~

33 ~~3. The department shall issue a hemp extract registration card to a~~
34 ~~parent who:~~

35 ~~(1) Is eighteen years of age or older;~~

36 ~~(2) Is a Missouri resident;~~

37 ~~(3) Provides the department with a statement signed by a neurologist~~
38 ~~that:~~

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

41 ~~(b) Is consistent with a record from the neurologist concerning the~~
42 ~~minor contained in the database described in subsection 9 of this section;~~

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

45 ~~(5) Submits an application to the department on a form created by the~~
46 ~~department that contains:~~

47 ~~(a) The parent's name and address;~~

48 ~~(b) The minor's name;~~

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

50 ~~(d) Any other information the department considers necessary to~~
51 ~~implement the provisions of this section.~~

52 ~~4. The department shall maintain a record of the name of each~~
53 ~~registrant and the name of each minor receiving care from a registrant.~~

54 ~~5. The department shall promulgate rules to:~~

55 ~~(1) Implement the provisions of this section including establishing the~~
56 ~~information the applicant is required to provide to the department and~~
57 ~~establishing in accordance with recommendations from the department of~~
58 ~~public safety the form and content of the hemp extract registration card; and~~

59 ~~(2) Regulate the distribution of hemp extract from a cannabidiol oil~~
60 ~~care center to a registrant, which shall be in addition to any other state or~~
61 ~~federal regulations; and-~~

62
63 ~~The department may promulgate rules to authorize clinical trials involving~~
64 ~~hemp extract.~~

65 ~~6. The department shall establish fees that are no greater than the~~
66 ~~amount necessary to cover the cost the department incurs to implement the~~
67 ~~provisions of this section.~~

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

71 8. ~~The neurologist who signs the statement described in subsection 2~~
72 ~~or 3 of this section shall:~~

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

76 (2) ~~Transmit the record described in subdivision (1) of this subsection~~
77 ~~to the department.~~

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

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

83 11. ~~Any rule or portion of a rule, as that term is defined in section~~
84 ~~536.010, that is created under the authority delegated in this section shall~~
85 ~~become effective only if it complies with and is subject to all of the provisions~~
86 ~~of chapter 536 and, if applicable, section 536.028. This section and chapter~~
87 ~~536 are nonseverable and if any of the powers vested with the general~~
88 ~~assembly pursuant to chapter 536 to review, to delay the effective date, or to~~
89 ~~disapprove and annul a rule are subsequently held unconstitutional, then the~~
90 ~~grant of rulemaking authority and any rule proposed or adopted after July 14,~~
91 ~~2014, shall be invalid and void.]~~

2 ~~[192.947. 1. No individual or health care entity organized under the~~
3 ~~laws of this state shall be subject to any adverse action by the state or any~~
4 ~~agency, board, or subdivision thereof, including civil or criminal prosecution,~~
5 ~~denial of any right or privilege, the imposition of a civil or administrative~~
6 ~~penalty or sanction, or disciplinary action by any accreditation or licensing~~
7 ~~board or commission if such individual or health care entity, in its normal~~
8 ~~course of business and within its applicable licenses and regulations, acts in~~
9 ~~good faith upon or in furtherance of any order or recommendation by a~~
10 ~~neurologist authorized under section 192.945 relating to the medical use and~~
11 ~~administration of hemp extract with respect to an eligible patient.~~

12 ~~2. The provisions of subsection 1 of this section shall apply to the~~
13 ~~recommendation, possession, handling, storage, transfer, destruction,~~
14 ~~dispensing, or administration of hemp extract, including any act in~~
15 ~~preparation of such dispensing or administration.~~

16 ~~3. Notwithstanding the provisions of section 538.210 or any other law~~
17 ~~to the contrary, any physician licensed under chapter 334, any hospital licensed~~
18 ~~under chapter 197, any pharmacist licensed under chapter 338, any nurse~~
19 ~~licensed under chapter 335, or any other person employed or directed by any~~
20 ~~of the above, which provides care, treatment or professional services to any~~
21 ~~patient under section 192.945 shall not be liable for any civil damages for acts~~
22 ~~or omissions unless the damages were occasioned by gross negligence or by~~
23 ~~willful or wanton acts or omissions by such physician, hospital, pharmacist,~~
~~nurse, or person in rendering such care and treatment.]~~

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

8 ~~(3) Contains no other psychoactive substance.~~

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

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

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

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

21 ~~(a) Has a number that corresponds with the number on the label~~
22 ~~described in subdivision (2) of this subsection;~~

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

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

28 ~~(d) Is transmitted by the laboratory to the department of health and~~
29 ~~senior services; and~~

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

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

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

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

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

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

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

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

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

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

~~(5) "Grower", a nonprofit entity issued a cultivation and production facility license by the department of agriculture that produces hemp extract for the treatment of intractable epilepsy;~~

~~(6) "Hemp":~~

~~(a) All nonseed parts and varieties of the cannabis sativa plant, whether growing or not, that contain a crop wide average tetrahydrocannabinol (THC) concentration that does not exceed the lesser of:~~

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

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

~~(b) Any cannabis sativa seed that is:~~

~~a. Part of a growing crop;~~

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

~~c. For processing into or use as agricultural hemp seed.~~

~~This term shall not include industrial hemp commodities or products;~~

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

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

~~3. A grower may produce and manufacture hemp and hemp extract, and distribute hemp extract as defined in section 195.207 for the treatment of persons suffering from intractable epilepsy as defined in section 192.945 consistent with any and all state or federal regulations regarding the production, manufacture, or distribution of such product. The department~~

49 shall not issue more than two cultivation and production facility licenses for
50 the operation of such facilities at any one time.

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

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

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

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

63 (2) The percent based on a dry weight basis determined by the federal
64 Controlled Substances Act under 21 U.S.C. Section 801, et seq.;

65

66 the director may detain, seize, or embargo the crop.

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

68 (1) Application requirements for licensing, including requirements for
69 the submission of fingerprints and the completion of a criminal background
70 check;

71 (2) Security requirements for cultivation and production facility
72 premises, including, at a minimum, lighting, physical security, video and alarm
73 requirements;

74 (3) Rules relating to hemp monitoring systems as defined in this
75 section;

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

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

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

90 8. Any rule or portion of a rule, as that term is defined in section
91 536.010, that is created under the authority delegated in this section shall
92 become effective only if it complies with and is subject to all of the provisions
93 of chapter 536 and, if applicable, section 536.028. This section and chapter
94 536 are nonseverable, and if any of the powers vested with the general
95 assembly under chapter 536 to review, to delay the effective date, or to
96 disapprove and annul a rule are subsequently held unconstitutional, then the

97 ~~grant of rulemaking authority and any rule proposed or adopted after July 14,~~
98 ~~2014.~~

99 ~~9. All hemp waste from the production of hemp extract shall either be~~
100 ~~destroyed, recycled by the licensee at the hemp cultivation and production~~
101 ~~facility, or donated to the department or an institution of higher education for~~
102 ~~research purposes, and shall not be used for commercial purposes.~~

103 ~~10. In addition to any other liability or penalty provided by law, the~~
104 ~~director may revoke or refuse to issue or renew a cultivation and production~~
105 ~~facility license and may impose a civil penalty on a grower for any violation of~~
106 ~~this section, or section 192.945 or 195.207. The director may not impose a~~
107 ~~civil penalty under this section that exceeds two thousand five hundred~~
108 ~~dollars.]~~

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