



K-122

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JASON KANDER
SECRETARY OF STATE
STATE OF MISSOURI

ELECTIONS DIVISION
(573) 751-2301

January 31, 2014

The Honorable Tom Schweich
State Auditor
State Capitol Building
Jefferson City, MO 65101

RECEIVED
JAN 31 2014
STATE AUDITORS OFFICE

RE: Petition approval request from Tony Nenner regarding a proposed constitutional amendment to Article I (2014-122)

Dear Auditor Schweich:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Constitution of Missouri filed by Tony Nenner on January 30, 2014.

We are referring the enclosed petition sample sheet to you for the purposes of preparing a fiscal note and fiscal note summary as required by section 116.332, RSMo. Section 116.175.2, RSMo requires the state auditor to forward the fiscal note and fiscal note summary to the attorney general within twenty days of receipt of the petition sample sheet.

Thank you for your immediate consideration of this request.

Sincerely,

Jason Kander

cc: Hon. Chris Koster
Sheri Hoffman
Barbara Wood

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County _____
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It is a class A misdemeanor punishable, notwithstanding the provisions of Section 560.021 R.S.Mo., to the contrary, for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any initiative petition with any name other than his own, or knowingly to sign his name more than once for the same measure for the same election, or to sign a petition when he knows he is not a registered voter.

MO SEC. OF STATE

INITIATIVE PETITION

To the Honorable Jason Kander, Secretary of State for the state of Missouri:

We, the undersigned, registered voters of the state of Missouri and _____ County (or City of St. Louis), respectfully order that the following proposed amendment to the constitution shall be submitted to the voters of the state of Missouri, for their approval or rejection, at the general election to be held on the 4th day of November, 2014, and each for himself or herself says: I have personally signed this petition; I am a registered voter of the state of Missouri and _____ County (or City of St. Louis); my street address and the name of the city, town, or village in which I live are correctly written after my name.

Shall the Missouri Constitution be amended to:

OFFICIAL BALLOT TITLE, LANGUAGE, AND FISCAL NOTE WILL BE PUT HERE

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____

I, _____, being first duly sworn, say

| NAME (Signature) | DATE SIGNED | REGISTERED VOTING ADDRESS (Street) (City, Town or Village) | ZIP CODE | CONGR. DIST. | NAME (Printed or Typed) |
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address, and city, town, or village correctly, and that each signer is a registered voter of the state of Missouri and _____ County.

Signature of Affiant (person obtaining signatures)

Address of Affiant

Subscribed and sworn to before me this _____ day of _____, _____, A.D.

Notary Public (Seal)
My commission expires: _____

Signature of Notary

Address of Notary

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Be it resolved by the people of the State of Missouri that the Constitution be amended:

One new section is adopted to be known as Article I, Section 35(a) and to read as follows:

1. The purpose of this section is to legalize, regulate, and tax the use of marijuana for medical and adult recreational purposes and to regulate marijuana separately from agricultural and industrial production of cannabis hemp.
2. The people of the State of Missouri intend that this section and the rules, regulations, and laws promulgated and enacted pursuant to this section will:
 - (1) Guarantee the right of all patients with a medical condition to use medical marijuana when a health care provider licensed to prescribe medications advises that such use may provide a medical benefit to them;
 - (2) Guarantee the right of farmers and businesses to produce and manufacture cannabis hemp and products made from cannabis hemp;
 - (3) Guarantee the right of persons over 21 years of age to engage in use, possession, production, intrastate transportation, and distribution of marijuana, subject to reasonable regulations by state government pursuant to this section;
 - (4) Expunge all government records of, reduce the punishments for, and restore the civil status of prior marijuana law offenders;
 - (5) Promote vital state interests in regulation of the sale and distribution of marijuana in order to:
 - (a) Prevent illegal underage use of marijuana and prevent marijuana advertising from being targeted at underage persons;
 - (b) Maintain an orderly marketplace composed of state-licensed marijuana producers, distributors, and retailers;
 - (c) Raise tax revenue from the production and sale of marijuana and allocate such revenue for state and local law enforcement and firefighter pensions and retirement plans; elementary, secondary, and higher education; the cities and counties of this state; mental health and substance abuse programs; and for the purposes of enforcing regulations upon the sale and distribution of marijuana authorized by this section;
 - (d) Prevent revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
 - (e) Prevent violence and the illegal use of firearms in the cultivation and distribution of marijuana;
 - (f) Prevent marijuana related activities that are legal under state law from being used as a cover or pretext for other illegal activity;
 - (g) Prevent illegal diversion of marijuana into or from this state or onto federal property;
 - (h) Prevent driving, operating dangerous machinery, and performing important tasks while impaired by marijuana;
 - (i) Prevent illegal growing of marijuana on public lands;
 - (j) Encourage the federal government to have faith in the states' ability to eliminate the problems associated with uncontrolled criminal manufacture, production, delivery, and possession of marijuana.
3. Unless the context clearly indicates otherwise, as used in this section, the following terms have the following meanings:
 - (1) "Consumer" means an individual who purchases, acquires, owns, holds, or uses marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia other than for the purpose of resale.
 - (2) "Deliver" or "delivery" means the transfer from one person to another of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia, whether or not there is an agency relationship, and includes a sale.
 - (3) "Department" means the department of health and senior services, or any successor department.
 - (4) "Division" means the division of alcohol and tobacco control within the department of public safety, or any successor division or department.
 - (5) "Entity" includes a corporation, professional corporation, nonprofit corporation, cooperative corporation, profit or nonprofit unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity, and includes a government subdivision or agency.
 - (6) "Expungeable marijuana offense" means:
 - (a) The manufacture, production, possession, or use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia;
 - (b) The delivery, possession with intent to deliver, or trafficking of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia to one or more individuals if such individuals were twenty-one years or older at the time of the offense.
 - (7) "Fair market sale" means, with respect to the sale of a product, a sale in which the purchase price of the product is not less than the price that a willing seller would accept and a willing buyer would pay in the open market and in competition with other similar products.
 - (8) "Impaired" means inability to safely or effectively operate a vehicle or other machinery or perform some other vital task.
 - (9) "Industrial hemp" means all male cannabis plants, all female cannabis plants that have not flowered for more than ten days, and all cannabis, whether growing or not, that contains not more than one percent tetrahydrocannabinol.
 - (10) "License" means any license, permit, registration, consent, or authorization issued, granted, given, or otherwise made available by or under the authority of any state or local government body, agency, or official.
 - (11) "Licensee" means any person who holds a marijuana license for manufacturing, producing, processing, wholesale purchase or sale, transportation, delivery, of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia.
 - (12) "Manufacture" means the production, preparation, propagation, compounding, or processing of marijuana paraphernalia or of marijuana, marijuana products, marijuana concentrates, or marijuana extracts, either directly or by extraction from substances of natural origin, or independently by chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging and repackaging of the substance and labeling or relabeling of its container.
 - (13) "Marijuana" means all parts of the plant genus Cannabis in any species or form thereof, whether growing or not, that contain more than one percent tetrahydrocannabinol, but does not include marijuana concentrates, marijuana extracts, marijuana products, or cannabis defined as industrial hemp.
 - (14) "Marijuana concentrate" means a product obtained by separating resins from marijuana by sifting, compression, heat, cold, and/or with non-volatile solvents such as water, ice, dry ice, vegetable glycerin, plant oils, and dairy products.
 - (15) "Marijuana extract" means a product obtained by separating resins from marijuana using volatile solvents such as butane, hexane, isopropyl alcohol, ethanol, or with the use of extremely high pressure or other dangerous technology.
 - (16) "Marijuana license" means a license issued by the division for the purchase, sale, manufacturing, production, processing, transportation, or delivery of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia.
 - (17) "Marijuana paraphernalia" means all equipment, products, substances, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing, containing, concealing, ingesting, inhaling, or otherwise introducing marijuana, marijuana products, marijuana concentrates, or marijuana extracts into the body.
 - (18) "Marijuana products" means products that contain marijuana, marijuana concentrates, or marijuana extracts and are meant for consumption, but does not mean marijuana by itself, marijuana concentrate by itself, or marijuana extract by itself.
 - (19) "Marijuana retailer" means a person who sells marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia to a consumer in this state.
 - (20) "Person" includes any individual or entity.
 - (21) "Personal exemption limits" means at any given time for any consumer who is at least twenty-one years of age:
 - (a) Three hundred sixty-five grams of useable marijuana, provided that not more than thirty-five grams is possessed outside of a person's bona fide residence; and
 - (b) 90 grams of marijuana concentrates or extracts that contain fifty percent or less tetrahydrocannabinol, provided that not more than five grams is possessed outside of a person's bona fide residence; and
 - (c) 45 grams of marijuana concentrates or extracts that contain more than fifty percent tetrahydrocannabinol, provided that not more than three grams is possessed outside the person's bona fide residence; and
 - (d) any amount of marijuana products in solid or liquid form, provided that the amount of marijuana used to produce them does not exceed three hundred sixty-five grams of useable marijuana and provided that not more marijuana products than were derived from thirty-five grams or less is possessed outside of a person's bona fide residence; and
 - (e) six living female marijuana plants after they have displayed flowers for ten days, provided the consumer has been a bona fide resident of the state for at least one year; and
 - (f) possession or manufacture of any amount of industrial hemp.
 - (22) "Person twenty-one years of age or older" includes any entity in which no individual under twenty-one years of age holds a direct or indirect interest.
 - (23) "Produce" or "production" includes the manufacture, planting, cultivation, growing, curing, or harvesting of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia.
 - (24) "Public place" means places developed for the general public to have access to, and includes but is not limited to: hallways, lobbies, and other parts of apartment houses and hotels not constituting rooms or apartments designed for actual residence; highways, streets, alleys, sidewalks, and other right of ways with improved surfaces for public travel; premises and facilities used in connection with public passenger transportation; open parts of public office buildings; open parts of all public schools and private schools who serve primarily persons under twenty-one years of age; playgrounds, picnic areas, and other developed areas of parks and other publicly owned land; and all indoor areas of any business that is open to the general public; but does not include any business with a marijuana license or any church or religious assembly where consumption of marijuana is part of the exercise of individuals' sincerely held religious beliefs.
 - (25) "State law" means any state or local law, regulation, rule, charter, ordinance, or other governmental action.
 - (26) "Tax" means any income, gross receipts, excise, stamp, property, windfall profit, personal property, sales, use, transfer, value added, concession, add on minimum or other tax, fee, assessment, levy, tariff, charge, or duty of any kind whatsoever imposed, assessed, or collected by or under the authority of any governmental body.
 - (27) "Useable marijuana" means fully dried female flowers and leaves of marijuana or any mixture thereof, but does not include seeds or parts that contain less than one percent tetrahydrocannabinol.
4. Except as otherwise provided in this section, no state law shall:
 - (1) Prohibit the medical use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia;
 - (2) Prohibit the agricultural cultivation, purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of industrial hemp;
 - (3) Prohibit the possession or use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;
 - (4) Prohibit the transportation or delivery of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older to persons twenty-one years of age and older;
 - (5) Prohibit the purchase, sale, manufacturing, production, and processing of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by persons twenty-one years of age and older;
 - (6) Impose a presumption of liability, culpability, negligence, being under the influence, intoxication, or any kind of impairment because of marijuana use or the presence of any amount of marijuana or marijuana metabolites in the body without independent evidence based on objective criteria that are applied in a non-discriminatory manner to all factors in

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making such determinations;

(7) Provide for the seizure or forfeiture of any property because it was used in connection with any purchase, sale, manufacturing, production, processing, transportation, delivery, possession, or use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, marijuana paraphernalia, or industrial hemp if such activity is lawful under state law;

or
(8) Authorize any expenditures or other assistance to the enforcement of laws of another jurisdiction that prohibit acts that are made lawful under this section, including maintenance of any license issued to any person who attempts to circumvent the purposes of this section by assisting in the enforcement of laws of another jurisdiction that prohibit acts made lawful by this section.

5. Notwithstanding sub-section 4 of this section, a state law may:

(1) Prohibit illegal importation and exportation of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia into and out of this state;

(2) Prohibit the purchase, sale, manufacturing, production, processing, or delivery of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia in or on, or within one thousand feet of real property comprising a public or private elementary or secondary school, public vocational school, or a public or private community college, college, or university attended primarily by individuals under twenty-one years of age;

(3) Prohibit the operation of a passenger or commercial vehicle, watercraft, aircraft, railroad train, heavy equipment, or other similar dangerous machinery while impaired by marijuana;

(4) Authorize the least restrictive non-prohibitive regulations of medical marijuana use that are necessary to further the state's compelling interests in issuing licenses; disciplining public officials and professionals; protecting prisoners, probationers, and parolees; and preserving the peace without discrimination in housing, employment, and public accommodations;

(5) Impose an excise tax on the first fair market sale of marijuana produced in this state at a rate of twenty-five percent of the purchase price;

(6) Prohibit the use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia in a public place, except that the penalty for violation of such a law shall not exceed that for an infraction;

(7) Prohibit the purchase, sale, manufacturing, production, processing, transportation, delivery, or possession of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia by any person that does not comply with any rules, regulations, and laws promulgated and enacted in accordance with sub-section 6 of this section and classify the penalties for violations of such laws, provided that no penalty for any offense based on facts relating to any marijuana use, manufacture, or transaction shall be greater than that for the lowest classification of felony.

6. Subject to the provisions of subsection 7 of this section, on or before June 1, 2015 the division shall promulgate rules and regulations, and the general assembly may enact laws, that control and regulate the purchase, sale, manufacturing, production, processing, transportation, delivery, possession, and use of marijuana, marijuana products, marijuana concentrates, marijuana extracts, and marijuana paraphernalia, including but not limited to rules, regulations, and laws that:

(1) Require a person to obtain a marijuana license to purchase wholesale, sell, manufacture, produce, process, transport, or deliver marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia for commercial purposes;

(2) Provide for the enforcement of laws regulating licensees and for the examination and inspection of the books, records, and premises of licensees;

(3) Regulate the advertising of marijuana, marijuana products, marijuana concentrates, marijuana extracts, and marijuana paraphernalia;

(4) Provide for the collection of the excise tax provided in paragraph (5) of subsection 5 of this section;

(5) Provide for the receipt and transfer of all funds received by the state from the excise taxes and license fees collected as follows:

(a) First, to the division, an amount that the general assembly deems necessary for the division to carry out the division's obligations under such laws, including a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out such obligations;

(b) Next, the remainder of such funds to such specific transferees as the general assembly may determine, for the following purposes: (i) for state and local law enforcement and firefighter pensions and retirement plans, twenty-five percent; (ii) for public institutions of elementary and secondary education, twenty-five percent; (iii) for mental health and substance abuse programs, twenty percent; (iv) for cities and counties, fifteen percent; and (v) for public institutions of higher education or for scholarships to attend such institutions, fifteen percent; and

(c) All moneys appropriated by the general assembly from the excise taxes authorized in paragraph (5) of subsection 5 of this section shall provide additional funds for the purposes enumerated above and not replace existing funding;

(6) Limit the amount of marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia that a person, other than a licensee, may possess at any given time; provided however that the penalty for violation of any such law may not exceed that for an infraction for a first violation and a misdemeanor for any second and subsequent violation.

7. No state law or combination of state laws shall:

(1) Prohibit any qualifying individual from using medical marijuana;

(2) Limit the amount of industrial hemp a person may possess or manufacture;

(3) Impose any tax on, or discrimination in administration of subsidies or other programs relating to, industrial hemp or marijuana, marijuana products, marijuana concentrates, marijuana extracts, marijuana paraphernalia or transactions involving industrial hemp, marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia that is not imposed on other products generally, except for the tax provided in paragraph (5) of subsection 5 of this section and reasonable administrative fees for licensees;

(4) Limit the amount of marijuana, marijuana products, marijuana concentrates, or marijuana extracts that consumers over the age of twenty-one may manufacture or possess for noncommercial use at any given time to amounts less than:

(a) Three hundred sixty-five grams of useable marijuana, provided that not more than thirty-five grams is possessed outside of a person's bona fide residence; and

(b) 90 grams of marijuana concentrates or extracts that contain fifty percent or less tetrahydrocannabinol, provided that not more than five grams is possessed outside of a person's bona fide residence; and

(c) 45 grams of marijuana concentrates or extracts that contain more than fifty percent tetrahydrocannabinol, provided that not more than three grams is possessed outside the person's bona fide residence; and

(d) any amount of marijuana products in solid or liquid form, provided that the amount of marijuana used to produce them does not exceed three hundred sixty-five grams of useable marijuana and provided that not more marijuana products than were derived from thirty-five grams or less is possessed outside of a person's bona fide residence; and

(e) six living female marijuana plants after they have displayed flowers for ten days, provided the consumer has been a bona fide resident of the state for at least one year;

(5) Limit the aggregate number of licensees that may hold marijuana licenses or the aggregate number of marijuana licenses that may be granted, provided however that the number of licensed marijuana retailers in a county may be limited to no fewer than one marijuana retailer per 2,500 inhabitants in such county, according to the most recent census of the United States;

(6) Limit the number of marijuana licenses granted to the same person;

(7) Prohibit the same person from being granted or holding one or more different types of marijuana licenses;

(8) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person is not organized in or is not a resident of this state;

(9) Prohibit a person from being granted or holding a marijuana license because the person or any individual who owns a direct or indirect interest in the person has been convicted of violating: (i) any non-discretionary expungeable marijuana offense specified in paragraphs (1) or (2) of subsection 10 of this section; or (ii) any marijuana-related offense that has been expunged;

(10) Require a person twenty-one years of age or older to obtain any license to possess or use marijuana, marijuana products, marijuana concentrates, marijuana extracts, marijuana paraphernalia, or industrial hemp within the personal exemption limits;

(11) Require a consumer twenty-one years of age or older to obtain any license to purchase marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia from a licensed marijuana retailer;

(12) Require any marijuana retailer to record the name or any other identifiable information of any consumer twenty-one years of age or older;

(13) Require any individual twenty-one years of age or older to obtain any license to deliver marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia for no consideration to another person twenty-one years of age or older, if:

(a) the marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia was purchased from a licensed marijuana retailer; or

(b) the marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia were produced by a person without a license in accordance with paragraph (14) of this subsection;

(14) Require an individual twenty-one years of age or older to obtain a license, pay any tax, or be subjected to any laws that are not the least restrictive means necessary to further compelling state interests in order to possess or manufacture marijuana, marijuana products, marijuana concentrates, or marijuana paraphernalia for noncommercial uses if the aggregate amounts of marijuana, marijuana products, or marijuana concentrates do not exceed the personal exemption limits; but provided that manufacture of marijuana extracts may require a license for non-commercial or commercial use;

(15) Provide that the penalty for manufacturing more than the number of marijuana plants that may be manufactured without a license under paragraph (14) of this subsection may exceed that for:

(a) An infraction if the violation is a first violation and the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(b) A misdemeanor, if the violation is a first violation and the number of marijuana plants is more than double but not more than quadruple the number of marijuana plants that may be manufactured without a license; or

(c) A misdemeanor, if: (i) the violation is a second violation; (ii) with respect to the first violation, the number of marijuana plants was not more than double the number of marijuana plants that may be manufactured without a license; and (iii) with respect to the second violation, the number of marijuana plants is not more than double the number of marijuana plants that may be manufactured without a license;

(16) Provide that the penalty for violation of any other offense that is based on marijuana possession or transactions be punishable by more than that authorized for the lowest classification of felony;

(17) Make the ownership or operation of an industrial hemp business or licensed business that manufactures, produces, or delivers marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia in this state so burdensome that it would be impracticable for a prudent business person to organize or conduct business.

8. On or before June 15, 2015 the department shall promulgate rules and regulations, and the general assembly may enact laws, that:

(1) Permit individuals with a medical condition who may benefit from the medical use of marijuana, marijuana products, marijuana concentrates, or marijuana extracts to be able to discuss freely with their health care providers the possible risks and benefits of medical marijuana use and have the benefit of their health care providers' advice;

(2) Protect medical marijuana consumers and their health care providers from being subjected to any criminal or civil penalties or discrimination regarding impeachment or removal from office; employment; housing; education; public accommodations; child custody, guardianships, foster care, and adoptions; organ transplants and other health care when a health

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- care provider who is licensed and certified to write prescriptions for any medication, including a veterinarian providing bona fide care for an animal owned by a consumer who is 21 years of age or older, advises that such use may provide a medical benefit to the patient, subject however to narrowly tailored regulations that authorize the least restrictive means of furthering compelling state interests under particular circumstances;
- (3) Provide that no individual under eighteen years of age shall be allowed to use marijuana, marijuana products, marijuana concentrates, or marijuana extracts for medical purposes unless such individual's custodial parent or legal guardian responsible for making health care decisions consents to such use.
- (4) Seek reciprocal recognition of medical marijuana consumers with other states that authorize use of medical marijuana;
- (5) Assure that personally identifying information about medical marijuana consumers and their health care providers is not subject to public disclosure.
9. No licensed health care provider may be subjected to any criminal or civil penalty, or to discipline from any state licensing division, board, or commission, for:
- (1) Advising that a patient whom the health care provider has diagnosed as having a medical condition, or a patient whom the health care provider knows has been so diagnosed by another licensed health care provider, about the risks and benefits of medical use of marijuana or that the medical use of marijuana may mitigate the causes, symptoms, or effects of the patient's medical condition, provided the advice is based on the health care provider's personal assessment of the patient's medical history and current medical condition; or
- (2) Providing any written documentation that evidences or confirms such assessment and advice.
10. Convictions for marijuana or industrial hemp offenses that occurred prior to the effective date of this section shall be expunged and penalties retroactively reduced as follows:
- (1) An individual who has pleaded guilty to or has been convicted of violating any expungeable marijuana offense, and who was twenty-one years of age or older at the time of the offense, may apply to the court in which he or she was sentenced for an order to expunge all government records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has pleaded guilty to or has been convicted of an expungeable marijuana offense, the court shall enter an order of expungement. An individual shall be entitled to one or more expungements pursuant to this paragraph (1).
- (2) After a period of not less than one year, an individual who has pleaded guilty to or has been convicted of violating any expungeable marijuana offense for the first time, and who was under twenty-one years of age at the time of the offense, and who since such conviction has not been convicted of any other marijuana-related offense, may apply to the court in which he or she was sentenced for an order to expunge all government records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that such individual has not been convicted of any other marijuana related offense that occurred prior to the date the application for expungement was filed, the court shall enter an order of expungement, provided however that the expungement proceeding shall be stayed pending the outcome of any pending marijuana related charge stemming from an alleged offense that occurred prior to filing the application for expungement.
- (3) An individual who has pleaded guilty to or has been convicted of violating any expungeable marijuana offense that is not expungeable pursuant to paragraph (1) or (2) of this subsection may apply to the court in which he or she was sentenced for an order to expunge all government records of his or her arrest, plea, trial, and conviction. If the court determines, upon review, that an order of expungement is in the interests of justice, the court may enter an order of expungement. An individual may be entitled to one or more orders of expungement pursuant to this paragraph (3).
- (4) The filing fee for application for an order of expungement pursuant to this subsection shall not exceed the normal fee for filing a civil petition in the circuit court.
- (5) The effects of an order of expungement shall be to order destruction of all government records of the marijuana offense arrest, plea, trial, or conviction and to restore the applicable individual to the status he or she occupied prior to such arrest, plea, trial, or conviction as if such event had never happened, including but not limited to: full restoration of such offender's voting, jury, firearms, licensure, and any other civil rights or privileges that were forfeited or compromised because of the expunged offense. No individual as to whom such order has been entered shall be charged thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction, or expungement in response to any inquiry made of him or her for any purpose whatsoever.
- (6) If an applicant petitioning for expungement of an expungeable marijuana offense alleges that he or she is currently restrained of liberty by virtue of jail, imprisonment, probation, parole, or otherwise restrained of his or her liberty the case shall be expedited and proceed by writ of habeas corpus. Such a person imprisoned or in jail, on probation or parole, or otherwise restrained of his or her liberty shall be released from such restraint immediately upon issuance of the applicable order or orders of expungement.
- (7) A person who is in jail, prison, on probation, on parole, or otherwise currently restrained of his or her liberty because of any non-expungeable offense or alleged offense that is based on marijuana possession, use, or transactions who has been detained for a period of time or is being held pursuant to a sentence that is longer than that authorized for the lowest classification of felony may apply for an order of expungement pursuant to this subsection and shall be ordered released immediately or at some definite time before the maximum imprisonment authorized for punishment of the lowest classification of felony and shall be released upon granting of an order of expungement pursuant to this subsection; however, records of the offense shall not be destroyed, but may be closed to the public if the court determines closing the records is in the interests of justice.
11. No contract shall be unenforceable on the basis that manufacturing, producing, delivering, possessing, or using industrial hemp, marijuana, marijuana products, marijuana concentrates, marijuana extracts, or marijuana paraphernalia is prohibited by federal law.
12. Nothing in this section shall be construed to:
- (1) Affect any federal or state law that permits an owner, lessor, lessee, or any other person who has a legal interest in real property from prohibiting the manufacture, production, delivery, possession, or use of marijuana on such real property;
- (2) Require a person to violate a federal law; or
- (3) Exempt a person from a federal law.
13. The Attorney General is authorized and directed to advocate for waivers of or exceptions to all federal laws inconsistent with this section and to seek expungement of records of expunged offenses that are maintained by another jurisdiction.
14. The Governor is authorized and directed to advocate for the federal government to waive or amend all laws inconsistent with this section.
15. The general assembly may enact laws to regulate industrial hemp and marijuana that are not inconsistent with this section.
16. The division is authorized and directed to make, administer, and enforce rules and regulations that are not inconsistent with this section.
17. The department is authorized and directed to make, administer, and enforce rules and regulations that are not inconsistent with this section.
18. All provisions of this section shall be self-enforcing. This section will become effective thirty days after the election approving this section.
19. It is hereby declared to be the intent of this section that each and every subsection, paragraph, phrase, and word of this section would have been adopted regardless of whether one or more of the subsections, paragraphs, phrases, or words of this section is held unconstitutional, illegal, or void. To that end, the subsections, paragraphs, phrases, and words of this section are intended to be severable. If any subsections, paragraphs, phrases, or words of this section are held to be unconstitutional, illegal, or void, either on their face or as applied, the constitutionality, legality, and applicability of any and all other subsections, paragraphs, phrases, and words shall not be affected.
20. All state laws that are inconsistent with this section shall no longer be in force and effect insofar as they are inconsistent with this section. Insofar as they are applied to industrial hemp or marijuana, this section may implicitly repeal or amend the following statutes:
- (1) Sections 1.170; 1.180; 105.1105; 105.1108; 105.1112; 324.041; 324.086; 331.060; 332.321; 333.330; 334.100; 334.102; 334.103; 334.107; 334.108; 334.109; 334.110; 337.035; 337.330; 337.525; 337.630; 337.730; 338.013; 338.055; 338.065; 338.380; 339.100; 340.264; 340.274; 441.830; 486.385; 487.050; 577.500.1(3); 577.505; 590.080; 590.090; 590.100; 630.170; 578.315; 558.011.4(2); 632.505.3(3) by protecting medical marijuana consumers and their health care providers from any criminal or civil penalties or discrimination in: public employee hiring and discipline; professional and other licensure; employment, housing, education, public benefits, and public accommodations; organ transplants and other health care; and terms of probation, incarceration, or parole;
- (2) Section 263.250 by legalizing agricultural and industrial hemp and thereby removing cannabis from the list of noxious weeds;
- (3) Sections 195.010.1(7)(g and l), (24), (40); 195.015.4; 195.017.2(1)(4)(w, ee, and ll); 195.202; 195.211; 195.222; 195.223 by removing marijuana and marijuana paraphernalia from the list of controlled substances and legalizing their use, possession, production and distribution;
- (4) Sections 195.275; 195.285; 195.291; 195.212; 195.213; 195.292; 195.295; 195.296; 195.320; 556.031; 558.016; 558.019; 568.045; 578.421(2)(d) by annulling or modifying application of statutes authorizing a criminal penalty for marijuana offenses;
- (5) Sections 1.160; 610.120; 610.126.2 by expunging and destroying government records of marijuana law offenders and releasing marijuana law offenders from incarceration, probation, and parole;
- (6) Sections 195.190; 195.195; 548.021 by prohibiting state expenditures or resources to cooperate with other states' or federal marijuana prohibition laws;
- (7) Sections 306.110; 306.111.5; 306.116; 306.117; 571.070; 571.072; 577.001.3; 577.010; 577.020; 577.023(4); 577.037; 577.041.2(1)(a); 577.049; 577.203; 577.206; 577.214; 577.217; 577.221 by not presuming liability, culpability, negligence, being under the influence, intoxication, or any kind of impairment because of marijuana use or the presence of marijuana in a person's body.
- (8) Article V, Section 24 and Article VII, Section 1 of the Constitution may be implicitly amended by protecting judges and elected officials from the civil penalties of discipline, impeachment, or removal from office if they are qualified medical marijuana consumers even if they are in violation of federal law.