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JAN 10 2020

JAMES C. KIRKPATRICK  
STATE INFORMATION CENTER  
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JOHN R. ASHCROFT  
SECRETARY OF STATE  
STATE OF MISSOURI

STATE AUDITORS OFFICE  
ELECTIONS DIVISION  
(573) 751-2301

January 10, 2020

The Honorable Nicole Galloway  
State Auditor  
State Capitol Building  
Jefferson City, MO 65101

RE: Petition approval request from Mark Parachini regarding a proposed constitutional amendment to Article XIV (2020-145)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Mark Parachini on January 10, 2020.

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,

John R. Ashcroft

cc: Hon. Eric S. Schmitt  
Sheri Hoffman  
Trish Vincent

It is a class A misdemeanor punishable, notwithstanding the provisions of section 560.021, RSMo, 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 or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter.

To the Honorable John R. Ashcroft, Secretary of State for the state of Missouri:  
We, the undersigned, registered voters of the state of Missouri and \_\_\_\_\_, County (or \_\_\_\_\_  
rejection, at the general election to be held on the 3rd day of November, 2020, and each for himself or herself say  
address and the name of the city, town or village in which I live are correctly written after my name.

INITIATIVE PETITION

2  
\_\_\_\_\_, we, the undersigned, registered voters or are state or 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 3rd day of November, 2020, 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 registered voting address and the name of the city, town or village in which I live are correctly written after my name

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CIRCULAR'S AFFIDAVIT

Signature	Date Signed	Registered Voting Address	Zip Code	Cong. District	Printed First and Last Name
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Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_.

(Seal)

Printed Name of Affiant  
City, State and Zip Code of Affiant  
Signature of Notary  
Address of Notary

**Address of Notary**

Signature of Notary

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

Article XIV is amended by amending Section 1 of Article XIV and enacting one new section to be known as Section 2 of Article XIV, to read as follows:

**XIV Section 1. Right to access medical marijuana.**

**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 for nonmedical purposes. The section does not allow for the public use of marijuana and driving under the influence of marijuana.

**2. Definitions.**

(1) **“Administer”** means the direct application of marijuana to a qualifying patient by way of any of the following methods:

- (a) Ingestion of capsules, teas, oils, and other marijuana-infused products;
- (b) Vaporization or smoking of dried flowers, buds, plant material, extracts, or oils;
- (c) Application of ointments or balms;
- (d) Transdermal patches and suppositories;
- (e) Consuming marijuana-infused food products; or
- (f) Any other method recommended by a qualifying patient’s physician.

(2) **“Department”** means the department of health and senior services, or its successor agency.

(3) **“Entity”** means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) “**Flowering plant**” means a marijuana plant from the time it exhibits the [first] final signs of sexual maturity through harvest.

(5) “**Marijuana**” or “**marihuana**” means *Cannabis indica*, *Cannabis sativa*, and *Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana, as well as resin extracted from the plant and marijuana-infused products. “Marijuana” or “marihuana” do not include industrial hemp containing a crop-wide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis, or commodities or products manufactured from industrial hemp.

(6) “**Marijuana-infused products**” means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(7) “**Medical marijuana cultivation facility**” means a facility licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a medical marijuana dispensary facility, medical marijuana testing facility, or to a medical marijuana-infused products manufacturing facility or to any marijuana facility under this article.

(8) “**Medical marijuana dispensary facility**” means a facility licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and drug paraphernalia used to administer marijuana as provided for in this section to a qualifying patient, a primary caregiver, another medical marijuana dispensary facility, a medical marijuana testing facility, [or to] a medical marijuana-infused products manufacturing facility, or to any legal consumer or marijuana facility licensed under this article.

(9) “**Medical marijuana-infused products manufacturing facility**” means a facility licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a medical marijuana dispensary facility, a medical marijuana testing facility, [or to] another medical marijuana-infused products manufacturing facility, or to any other marijuana facility licensed under this article.

(10) “**Medical marijuana testing facility**” means a facility certified by the department to acquire, test, certify, and transport marijuana.

(11) “**Medical use**” means the production, possession, delivery, distribution, transportation, or administration of marijuana or a marijuana-infused product, or drug paraphernalia used to administer marijuana or a marijuana-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient’s qualifying medical condition.

(12) “**Physician**” means an individual who is licensed and in good standing to practice medicine or osteopathy under Missouri law.

(13) “**Physician certification**” means a document, whether handwritten, electronic or in another commonly used format, signed by a physician and stating that, in the physician’s professional opinion, the patient suffers from a qualifying medical condition.

(14) **“Primary caregiver”** means an individual twenty-one years of age or older who has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the primary caregiver’s application for an identification card under this section or in other written notification to the department.

(15) **“Qualifying medical condition”** means the condition of, symptoms related to, or side-effects from the treatment of:

- (a) Cancer;
- (b) Epilepsy;
- (c) Glaucoma;
- (d) Intractable migraines unresponsive to other treatment;
- (e) A chronic medical condition that causes severe, persistent pain or persistent muscle spasms, including but not limited to those associated with multiple sclerosis, seizures, Parkinson’s disease, and Tourette’s syndrome;
- (f) Debilitating psychiatric disorders, including, but not limited to, posttraumatic stress disorder, if diagnosed by a state licensed psychiatrist;
- (g) Human immunodeficiency virus or acquired immune deficiency syndrome;
- (h) A chronic medical condition that is normally treated with a prescription medication that could lead to physical or psychological dependence, when a physician determines that medical use of marijuana could be effective in treating that condition and would serve as a safer alternative to the prescription medication;
- (i) Any terminal illness; or
- (j) In the professional judgment of a physician, any other chronic, debilitating or other medical condition, including, but not limited to, hepatitis C, amyotrophic lateral sclerosis, inflammatory bowel disease, Crohn’s disease, Huntington’s disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer’s disease, cachexia, and wasting syndrome.

(16) **“Qualifying patient”** means a Missouri resident diagnosed with at least one qualifying medical condition.

### **3. Creating Patient Access to Medical Marijuana.**

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

- (a) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, and transportation of marijuana for medical use as provided by law; suspend, fine, restrict, or revoke such licenses and certifications upon a violation of this

section or a rule promulgated pursuant to this section; and impose any administrative penalty authorized by this section or any rule promulgated pursuant to this section.

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

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

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

(e) Issue standards for the secure transportation of marijuana and marijuana-infused products. The department shall certify entities which demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a medical marijuana cultivation facility, a medical marijuana-infused products manufacturing facility, a medical marijuana dispensary facility, a medical marijuana testing facility, or another entity with a transportation certification. The department shall develop or adopt from any 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 carry out the mandates of this section, the department may issue rules or emergency rules relating to the following subjects:

- (a) Compliance with, enforcement of, or violation of any provision of this section or any rule issued pursuant to this section, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license or certification issued pursuant to this section;
- (b) Specifications of duties of officers and employees of the department;
- (c) Instructions or guidance for local authorities and law enforcement officers;
- (d) Requirements for inspections, investigations, searches, seizures, and such additional enforcement activities as may become necessary from time to time;

- (e) Creation of a range of administrative penalties for use by the department;
- (f) Prohibition of misrepresentation and unfair practices;
- (g) Control of informational and product displays on licensed premises provided that the rules may not prevent or unreasonably restrict appropriate signs on the property of the medical marijuana dispensary facility, product display and examination by the qualifying patient and/or primary caregiver, listings in business directories including phone books, listings in marijuana-related or medical publications, or the sponsorship of health or not for profit charity or advocacy events;
- (h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed or certified pursuant to this section, including a fingerprint-based federal and state criminal record check in accordance with U.S. Public Law 92-544, or its successor provisions, as may be required by the department prior to issuing a card and procedures to ensure that cards for new applicants are issued within fourteen days. Applicants licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, shall forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to 43.543 and fees shall be paid pursuant to 43.530;
- (i) Security requirements for any premises licensed or certified pursuant to this section, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the department to properly administer and enforce the provisions of this section, including reporting requirements for changes, alterations, or modifications to the premises;
- (j) Regulation of the storage of, warehouses for, and transportation of marijuana for medical use;
- (k) Sanitary requirements for, including, but not limited to, the preparation of medical marijuana-infused products;
- (l) The specification of acceptable forms of picture identification that a medical marijuana dispensary facility may accept when verifying a sale;
- (m) Labeling and packaging standards;
- (n) Records to be kept by licensees and the required availability of the records;
- (o) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;
- (p) The reporting and transmittal of tax payments;

(q) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section; and

(r) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(3) The department shall issue rules or emergency rules for a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees and for requiring licensees to test medical marijuana using one or more impartial, independent laboratories to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health, to ensure correct labeling and measure potency. The department shall not require any medical marijuana or medical marijuana-infused products to be tested more than once prior to sale.

(4) The department shall issue rules or emergency rules to provide for the certification of and standards for medical marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as medical marijuana testing facilities. No medical marijuana testing facility shall be owned by an entity under [substantially] common control, ownership, or management, directly or indirectly, as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, [or] medical marijuana dispensary facility, or any other licensee or certificate holder under this article.

(5) [The department shall maintain the confidentiality of reports or other information obtained from an applicant or licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state or federal law. Such reports or other information may be used only for a purpose authorized by this section. Any information released related to patients may be used only for a purpose authorized by federal law and this 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.] Beginning December 2, 2020, all public records produced or retained pursuant to this section are subject to the general provisions of the Missouri Sunshine Law, as amended from time to time. Notwithstanding the foregoing, records containing proprietary business information obtained from an applicant or licensee are subject to closure. For documents submitted on or after December 2, 2020, the applicant or licensee shall label business information it believes to be proprietary prior to submitting it to the department. For documents submitted prior to December 2, 2020, the applicant or licensee may advise the department, through a department approved process, of any records previously submitted by the applicant or licensee it believes contain proprietary business information. Proprietary business information shall include sales information, financial records, tax returns, credit reports, cultivation information unrelated to product safety, testing results unrelated to product safety, site security information and plans, and individualized consumer information. The presence of proprietary business information shall not justify the closure of public records:

- (a) identifying the applicant or licensee;
- (b) relating to any citation, notice of violation, tax delinquency, or other enforcement action;
- (c) relating to any public official's support or opposition relative to any applicant, licensee, or their proposed or actual operations;
- (d) where disclosure is reasonably necessary for the protection of public health or safety; or
- (e) that are otherwise subject to public inspection under other applicable law.

(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] shall be limited by the department to thirty thousand square feet of flowering plant canopy space. Each outdoor facility utilizing natural lighting [may] shall be limited by the department to two thousand eight hundred flowering plants. Each greenhouse facility using a combination of natural and artificial lighting [may] shall 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]To ensure qualifying patients have access to an adequate supply of medical marijuana, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate marijuana, including [up to six] non-flowering plants and at least twelve flowering plants for the [exclusive] use of that qualifying patient. Marijuana under this subsection (12) may not be sold. The card shall be valid for [twelve] thirty-six 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] a 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.

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

(15) The department [may] shall restrict the aggregate number of licenses granted for medical marijuana cultivation facilities, provided, however, that the number may not be limited to fewer than one license per every one hundred thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States, and a restriction shall remain in effect once established, unless found to violate any other provision of law. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department [may] shall restrict the aggregate number of licenses granted for marijuana-infused products manufacturing facilities, provided, however, that the number may not be limited to fewer than one license per every seventy thousand inhabitants, or any portion thereof, of the state of Missouri, according to the most recent census of the United States, and a restriction shall remain in effect once established, unless found to violate any other provision of law. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department [may] shall restrict the aggregate number of licenses granted for medical marijuana dispensary facilities, provided, however, that the number may not be limited to fewer than twenty-four licenses in each United States congressional district in the state of Missouri pursuant to the map of each of the eight congressional districts as drawn and effective on December 6, 2018, and a restriction shall remain in effect once established, unless found to violate any other provision of law. Future changes to the boundaries of or the number of congressional districts shall have no impact.

(18) The department shall begin accepting license and certification applications for medical marijuana dispensary facilities, medical marijuana testing facilities, medical marijuana cultivation facilities, medical marijuana-infused products manufacturing facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred forty days after December 6, 2018. Applications for licenses and certifications under this section shall be approved or denied by the department no later than one hundred fifty days after their submission. If the department fails to carry out its nondiscretionary duty to approve or deny an application within one hundred fifty days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(19) Qualifying patients under this section shall obtain [and annually renew] an identification card or cards from the department. The department shall charge a fee of twenty-

five dollars per year per card with such fee 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. Cards shall be valid for three years and may be renewed with a new physician's certification. Upon receiving an application for a qualifying patient identification card or qualifying patient cultivation identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial. If the department fails to deny and fails to issue a card to an eligible qualifying patient within thirty days, then their physician certification shall serve as their qualifying patient identification card or qualifying patient cultivation identification card for up to one year from the date of physician certification. All initial applications for or renewals of a qualifying patient identification card or qualifying patient cultivation identification card shall be accompanied by a physician certification that is less than thirty days old.

(20) Primary caregivers under this section shall obtain [and annually renew] an identification card from the department. Cards shall be valid for three years. The department shall charge a fee of [twenty-five] seventy-five dollars [per year], with such fee 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. Upon receiving an application for a primary caregiver identification card, the department shall, within thirty days, either issue the card or provide a written explanation for its denial.

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

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

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

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

(25) The department shall not have the authority to apply or enforce any rule or regulation that would impose an undue burden on any one or more licensees or certificate holders, any qualifying patients, or act to undermine the 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 I 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 and shall allow for the purchase of marijuana for use by a non-resident patient from a medical marijuana dispensary facility as permitted by this section and in compliance with department regulations.

(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 non-emancipated 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] at least twelve 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, and his or her firm, shall not be subject to legal liability, or 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. To ensure protection of public health and safety, a consumer, qualifying patient, primary caregiver, certificate holder, applicant or licensee harmed as a result of a violation of the provisions of this section shall be entitled to compensation and reasonable costs, including court costs, expenses, and attorneys' fees, and as authorized under existing consumer protection laws as of the effective date of 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. The only local government and association ordinances or regulations that are binding on a marijuana facility, qualifying patient, primary caregiver, certificate holder, or entity or individual regulated under this article, are those of the local government where the entity or individual is located.

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

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

- (3) All entities holding a license for a medical marijuana cultivation facility, medical marijuana dispensary facility, and medical marijuana-infused products manufacturing facility [licenses], entities with medical marijuana testing facility certifications, and entities with

transportation certifications shall be held by entities that are majority owned and directly controlled by natural persons who have been citizens of the state of Missouri for at least one year prior to the application for such license or certification. Notwithstanding the foregoing, entities outside the state of Missouri may only own a minority stake, indirectly, in such entities.

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

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

(6) No individual shall serve as the primary caregiver for more than [three] six qualifying patients.

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

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

(9) All qualifying patient cultivation shall take place in an enclosed, locked facility that is equipped with security devices that permit access only by the qualifying patient or by such patient's primary caregiver. [Two] Six qualifying patients, who [both] all hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility, whether utilizing a primary caregiver or not. [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. The only local government ordinances or regulations that are binding on a marijuana facility are those of the local government where the marijuana facility is located.

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

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

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

## 8. Severability.

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

## 9. Effective Date.

The provisions of this section shall become effective on December 6, 2018.

## **Section 2. Marijuana Legalization, Regulation, and Taxation**

### **1. Purposes.**

The purposes of this section are to make marijuana legal under state and local law for adults twenty-one years of age or older, and to safely control the commercial production and distribution of marijuana under a system that licenses, regulates and reasonably taxes the businesses and consumers involved while promoting and protecting public safety, health and welfare in a fair way and safe environment. These purposes include promoting the Missouri cannabis industry of the people of this state and their rights to enjoyment of the gains of that industry, including the fair and equal opportunity to participate in their cannabis industry by means that are not overly burdensome, discriminating or unfair to its people. This section and its purposes shall be governed and protected as proscribed and mandated by the people of this great state, the "Show Me" state.

The intent of the purposes of this section is to provide revenue from the Missouri cannabis industry for education and general welfare programs for the people; prevent arrest and penalty for personal possession and cultivation of marijuana by adults twenty-one years of age or older; protect the rights of the voters of this state in support of a successful Missouri cannabis industry; minimize tax burdens of the people of this state by maintaining reasonable tax rates on cannabis that are lower than those of similar industries and reducing administrative, judicial and congressional expenses of illegal cannabis markets, including reduction of overcrowding of prisons and incarceration rates resulting from non-violent offenses related to cannabis; promoting the Missouri cannabis industry to foster economic prosperity for its people; enhance the quality of life, rights and benefits afforded to the honorable veterans of this state; allow for a marijuana microbusiness facility license to be held by any natural person that has been a resident of this state for at least one year and is otherwise qualified to directly control, safely operate and majority own a cannabis business in this state; remove the commercial production and distribution of marijuana from the illicit market for protection and safety of the people; prevent revenue generated from commerce in marijuana from going to criminal enterprises; prevent the distribution of marijuana to persons under twenty-one years of age; protect health by ensuring the safety of marijuana and products containing marijuana; and ensure the security of marijuana facilities. To the fullest extent possible, this section shall be interpreted in accordance with the purposes and intent set forth in this section and Constitution.

This section is not intended to allow for the public use of marijuana, driving while intoxicated by marijuana, the use of marijuana in the workplace, or the use of marijuana by persons under twenty-one years of age.

## 2. Definitions.

(1) “Consumer” means a person who is at least twenty-one years of age.

(2) “Department” means the department of health and senior services, or its successor agency.

(3) “Entity” means a natural person, corporation, professional corporation, nonprofit corporation, cooperative corporation, unincorporated association, business trust, limited liability company, general or limited partnership, limited liability partnership, joint venture, or any other legal entity.

(4) “Flowering plant” means a marijuana plant from the time it exhibits the first signs of sexual maturity through harvest.

(5) “Local government” means, in the case of an incorporated area, a village, town, or city and, in the case of an unincorporated area, a county.

(6) “Marijuana” means *cannabis indica*, *cannabis sativa*, and *cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute marijuana or cannabis, as well as resin extracted from the plant and marijuana-infused products. “Marijuana” does not include industrial hemp, including any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis, or commodities or products manufactured with industrial hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products.

(7) “Marijuana accessories” means any equipment, product, material, or combination of equipment, products, or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

(8) “Marijuana Cultivation Facility” means an entity licensed by the department to acquire, cultivate, process, store, transport, and sell marijuana to a marijuana dispensary facility, marijuana testing facility, or to a marijuana-infused products manufacturing facility, or as otherwise provided in this article.

(9) “Marijuana Dispensary Facility” means an entity licensed by the department to acquire, store, sell, transport, and deliver marijuana, marijuana-infused products, and marijuana accessories as provided for in this section to consumers, or as otherwise provided in this article.

(10) “Marijuana Facility” means a marijuana cultivation facility, marijuana dispensary facility, marijuana testing facility, marijuana-infused products manufacturing facility, marijuana microbusiness facility, or any other type of marijuana-related facility or business licensed or certified by the department pursuant to this section.

(11) “Marijuana-Infused Products” means products that are infused with marijuana or an extract thereof and are intended for use or consumption other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(12) “Marijuana-Infused Products Manufacturing Facility” means an entity licensed by the department to acquire, store, manufacture, transport, and sell marijuana-infused products to a marijuana dispensary facility, a marijuana testing facility, or to another marijuana-infused products manufacturing facility, or as otherwise provided in this article.

(13) “Marijuana Microbusiness Facility” means an entity, majority owned and directly controlled by one or more Missouri residents that have lived in the state for at least one year prior to the date of application, licensed and/or certified to cultivate not more than one hundred and fifty flowering plants or one-thousand five hundred square feet of flowering canopy space, process, store, transport, sell and package the marijuana and marijuana-infused products it cultivates and processes as stated in this article, and/or to acquire, store, manufacture, transport, deliver, sell, or otherwise transfer marijuana and marijuana-infused products it possesses or obtains from other marijuana facilities, marijuana dispensary facilities and marijuana testing facilities, to other marijuana microbusiness facilities, consumers or as otherwise provided in this article.

(14) “Marijuana Testing Facility” means an entity certified by the department to acquire, test, certify, and transport marijuana.

(15) “Owner” means an officer, board member, or other individual who has a financial (other than a security interest, lien, or encumbrance) or voting interest in ten percent or greater of a marijuana facility.

(16) “Unduly burdensome” means that the measures necessary to comply with the rules or ordinances adopted pursuant to this section subject licensees or potential licensees to such a high investment of money, time, or any other resource or asset that a reasonably prudent businessperson would not operate the marijuana facility.

### 3. Limitations.

(1) Except as otherwise provided in this article, this section does not preclude, limit, or affect laws that assign liability relative to, prohibit, or otherwise regulate:

- (a) Delivery or distribution of marijuana or marijuana accessories, with or without consideration, to a person younger than twenty-one years of age;
- (b) Purchase, possession, use, or transport of marijuana or marijuana accessories by a person younger than twenty-one years of age;
- (c) Consumption of marijuana by a person younger than twenty-one years of age;
- (d) Operating or being in physical control of any motor vehicle, train, aircraft, motorboat, or other motorized form of transport while intoxicated by marijuana;

- (e) Consumption of marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- (f) Smoking marijuana within a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;
- (g) Possession or consumption of marijuana or possession of marijuana accessories on the grounds of a public or private preschool, elementary or secondary school, institution of higher education, in a school bus, or on the grounds of any correctional facility;
- (h) Smoking marijuana in a location where smoking tobacco is prohibited;
- (i) Consumption of marijuana in a public place, other than in an area licensed by the department for consumption;
- (j) Conduct that endangers others, including actions prohibited under existing consumer protection laws of this state as of the effective date of this section;
- (k) Undertaking any task while under the influence of marijuana, if doing so would constitute negligence or professional malpractice, unless protected under existing law, this section or article; or
- (l) Performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol, unless licensed for this activity by the department.

(2) This section does not limit any privileges, rights, immunities, or defenses of a person or entity as provided in section 1 of this article, or any other law of this state allowing for or regulating marijuana for medical use.

(3) This section does not require an employer to permit or accommodate conduct otherwise allowed by this section in any workplace or on the employer's property. This section does not prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana. This section does not prevent an employer from refusing to hire, discharging, disciplining, or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that person's violation of a workplace drug policy or because that person was working while intoxicated by marijuana.

(4) This section allows a person to prohibit or otherwise regulate the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana-infused products, and marijuana accessories on private property the person owns, leases, occupies, or manages, except that a lease agreement executed after the enactment of this section may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking.

#### **4. Regulation of Marijuana.**

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

- (a) Grant or refuse state licenses for the cultivation, manufacture, dispensing, and sale of marijuana as provided by law; suspend, fine, restrict, or revoke such licenses upon a violation of this section or a rule promulgated pursuant to this section; and impose any reasonable administrative penalty authorized by this section or any rule promulgated pursuant to this section and its purposes;
- (b) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, dispensing, and sale of marijuana and for the enforcement of this section so long as such rules are reasonable and not unduly burdensome;
- (c) Develop such forms, certificates, licenses, identification cards, and applications as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;
- (d) Require a seed-to-sale tracking system that tracks marijuana from either the seed or immature plant stage until the marijuana or marijuana-infused product is sold to a consumer to ensure that no marijuana grown by a marijuana cultivation facility or marijuana microbusiness facility or manufactured by a marijuana-infused products manufacturing facility or marijuana microbusiness facility is sold or otherwise transferred to a consumer except by a marijuana dispensary facility, a marijuana microbusiness facility, or any other facility legally able to sell marijuana or medical marijuana under this article. The department shall certify, if possible, at least two commercially available systems to licensees as compliant with its tracking standards and issue standards for the creation or use of other systems by licensees;
- (e) Issue standards for the secure transportation of marijuana and marijuana-infused products and medical marijuana and medical marijuana infused-products, including standards for transporting to and from facilities licensed under this article. The department shall certify entities that demonstrate compliance with its transportation standards to transport marijuana and marijuana-infused products to a marijuana cultivation facility, marijuana-infused products manufacturing facility, marijuana dispensary facility, marijuana microbusiness facility, marijuana testing facility, or any other entity with a license or transportation certification under this article. The department shall develop or adopt from any 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 article shall be allowed to transport its own inventory and products in compliance with department transportation rules;
- (f) Promulgate rules and emergency rules for licensing, regulation and oversight of marijuana microbusiness facilities in accordance with the purposes of this section, including the requirement that an entity holding a marijuana microbusiness facility license be majority owned and directly controlled by one or more Missouri residents that have been living in this state for at least one year prior to application, and for any other

requirements, obligations or rights of marijuana microbusinesses established pursuant to this section and article;

(g) Provide for the issuance of additional types or classes of licenses, with preference of licensure given to entities majority owned and directly controlled by Missouri residents that have been living in the state for at least three years prior to the date of application, including but not limited to, licenses to operate marijuana-related businesses that allow for limited processing, transportation, delivery and storage of marijuana, licenses for the consumption of marijuana within designated, age-restricted areas, licenses to applicants denied a license under section 1 of this article if doing so would further the purposes of this article, and licenses intended to facilitate scientific research, education and promotion of the cannabis industry in accordance with the purposes of this section;

(h) Prepare and transmit annually a publicly available report accounting to the governor, the general assembly, and the public for the efficient discharge of all responsibilities assigned to the department under this section;

(i) Establish a system to qualify marijuana license and certificate applicants, including qualifications for the following:

- (i) The character, veracity, residency, and background of principal officers or managers;
- (ii) The operating plan proposed by the applicant, including the ability to maintain public health and safety, accountability, procedures to prevent illegal product diversion and/or inversion, illegal sales, and other factors the department deems absolutely necessary to promote the purposes of this section;
- (iii) In the case of marijuana testing facilities, the experience of their personnel with testing marijuana, food or drugs for toxins and potency and health care industry experience;

(j) In reviewing applicants and awarding licenses and certificates, the department may consult or contract with other public agencies with relevant expertise regarding these factors.

(2) The department shall issue a marijuana facility license to each applicant that submits an operating plant and proof of compliance with rules and emergency rules promulgated in accordance with this section. The department shall review applications from any person or entity previously denied a license under this article prior to reviewing applications from other applicants.

(3) The department shall promulgate rules and emergency rules establishing a system in which any qualified entity majority owned and directly controlled by one or more Missouri residents living in the state for at least one year prior to the date of application, be granted a marijuana microbusiness license in accordance with the purposes of this section.

(4) The department shall issue rules or emergency rules necessary for the implementation and enforcement of this section and ensure the right to, availability, and safe use of marijuana by consumers in accordance with the purposes of this section. In developing such rules or emergency rules, the department may consult or contract with other public agencies. The department may, but is not required to, consider the following subjects when promulgating rules or emergency rules only when necessary for implementation of this section and if in furtherance of the purposes of this section:

- (a) Procedures for issuing a license and for renewing, suspending, and revoking a license;
- (b) Qualifications for licensure that are directly and demonstrably related to the operation of a marijuana facility;
- (c) Requirements and standards for safe cultivation, processing, and distribution of marijuana and marijuana-infused products by marijuana facilities, including health standards to ensure the safe preparation of marijuana-infused products and prohibitions on pesticides that are not safe for use on marijuana;
- (d) Testing, packaging, and labeling standards, procedures, and requirements for marijuana and marijuana-infused products and a requirement that a representative sample of marijuana be tested by a marijuana testing facility to ensure public health;
- (e) Labeling standards that protect public health by requiring the listing of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package, and quantity limits per sale to comply with the allowable possession amount;
- (f) Requirements that packaging and labels shall not be made to be attractive to children, required warning labels, and that marijuana and marijuana-infused products be sold in resealable, child-resistant packaging to protect public health;
- (g) Security requirements, including lighting, physical security, and alarm requirements, and requirements for securely transporting marijuana between marijuana facilities;
- (h) Record keeping requirements for marijuana facilities and monitoring requirements to track the transfer of marijuana by licensees;
- (i) Restrictions on advertising, marketing, and display of marijuana, marijuana-infused products, marijuana accessories, and marijuana facilities;
- (j) A plan to promote and encourage ownership and employment in the marijuana industry by people from political subdivisions and districts that are economically distressed and to positively impact those political subdivisions and districts;
- (k) Administrative penalties for failure to comply with any rule promulgated pursuant to this section or for any violation of rules and regulations adopted pursuant to this section by a licensee, including administrative fines and suspension, revocation, or restriction of

a license. The licensee may choose to challenge any penalties imposed by the department through the Administrative Hearing Commission, or its successor entity. Pursuant to § 536.100 R.S.Mo., or successor provisions, any licensee who has exhausted all administrative remedies provided by law and who is aggrieved by a final decision in a contested case is entitled to judicial review;

(l) Reporting and transmittal of tax payments required under this section;

(m) Authorization for the department of revenue to have access to licensing information to ensure tax payment and the effective administration of this section;

(n) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this section.

(5) The department shall issue rules or emergency rules for marijuana and marijuana-infused products independent testing and certification program for marijuana facility licensees and requiring licensees to test marijuana using one or more impartial, independent laboratory or laboratories to ensure, at a minimum, correct labeling, potency measurement, and that products sold for human consumption do not contain contaminants that are potentially injurious to public health.

(6) The department shall issue rules or emergency rules to provide for the certification of and standards for marijuana testing facilities, including the requirements for equipment and qualifications for personnel, but shall not require certificate holders to have any federal agency licensing or have any relationship with a federally licensed testing facility. The department shall certify, if possible, at least two entities as marijuana testing facilities. No marijuana testing facility shall be owned by an entity under common control, ownership, or management, directly or indirectly, as a marijuana cultivation facility, marijuana-infused products manufacturing facility, marijuana microbusiness facility, marijuana facility or other facility, individual or entity licensed or certified pursuant to this section.

(7) All public records produced or retained pursuant to this section are subject to the general provisions of the Missouri Sunshine Law, as amended from time to time. Notwithstanding the foregoing, public records containing proprietary business information obtained from an applicant or licensee are subject to closure. The applicant or licensee shall label business information it believes to be proprietary prior to submitting it to the department. Proprietary business information shall include sales information, financial records, tax returns, credit reports, cultivation information unrelated to product safety, testing results unrelated to product safety, site security information and plans, and individualized consumer information. The presence of proprietary business information shall not justify the closure of public records:

(a) Identifying the applicant or licensee;

(b) Relating to any citation, notice of violation, tax delinquency, or other enforcement action;

(c) Relating to any public official's support or opposition relative to any applicant, licensee, or their proposed or actual operations;

(d) Where disclosure is reasonably necessary for the protection of public health or safety; or

(e) That are otherwise subject to public inspection under applicable law.

(8) Within two hundred and seventy days of the effective date of this section, the department shall make available to the public license application forms and application instructions, which are not unduly burdensome, for marijuana cultivation facilities, marijuana testing facilities, marijuana dispensary facilities, marijuana microbusiness facilities, marijuana-infused products manufacturing facilities, and any other license types and certifications it deems necessary to promote the purposes of this section. The department shall consider the financial impact on applicants previously denied licensure under this article, costs of reevaluating a similar application submitted by the same entity under this article and the non-refundable fees paid by applicants denied a license under this article when establishing rules and emergency rules for licensure requirements, fees, application procedures and instructions for licensure under this section.

(9) An entity, including its associated or affiliated entities, directly or indirectly, may apply to the department for only one and obtain only one license to grow cannabis as a cannabis cultivation facility. The license shall be valid for three years from its date of issuance and shall be renewable, except for good cause. During the first three-year licensing period, the facility shall be limited by the department to one thousand flowering plants or ten thousand square feet of flowering canopy. In subsequent years, the facility shall be limited by the department to two thousand eight hundred flowering plants or thirty thousand square feet of flowering plant canopy. The department shall charge each applicant a non-refundable application fee of three thousand dollars and a non-refundable license renewal fee of three thousand dollars. Annual fees shall be assessed at the rate of one dollar per square foot or at a rate of ten dollars per plant. Application, annual, and license renewal 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.

(10) An entity, including its associated or affiliated entities, may apply to the department for only three and obtain only three licenses to operate a 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 non-refundable fee of three thousand dollars per license application or renewal for each applicant filing an application within three years of the effective date of this section and shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of three 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. An entity may not be an owner of more than three marijuana dispensary facility licenses.

(11) An entity, including its associated or affiliated entities, directly or indirectly, may apply to the department for only three and obtain only three licenses to operate a 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 non-refundable fee of three thousand dollars per license application or renewal for each applicant filing an application within three years of the effective date of this section and shall charge each applicant a non-refundable fee of three thousand dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of three 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. An entity may not be an owner of more than three marijuana-infused products manufacturing facility licenses.

(12) An entity, including its associated or affiliated entities, directly or indirectly, may apply to the department for only one and obtain only one license to operate a marijuana microbusiness facility. A marijuana microbusiness facility license shall allow the licensee to be vertically integrated, including but not limited to, cultivating, processing, storing, manufacturing, transferring, transporting and dispensing marijuana, medical marijuana, and the products made therefrom. A marijuana microbusiness facility may be integrated in any way consistent with and allowed under this section. A marijuana microbusiness facility licensee may engage in all of the activities allowed under the license or it may apply for and engage in a subset of the activities allowed, if the applicant or license holder so chooses. A marijuana microbusiness facility licensee may sell marijuana it cultivates, processes, manufactures, and packages to any marijuana dispensary facility, any other marijuana microbusiness facility, directly to consumers, or to any other facility or individual able to purchase under this article. A marijuana microbusiness facility may also process, manufacture, store, acquire, sell, transfer or otherwise distribute, marijuana and marijuana-infused products it obtains from another marijuana microbusiness facility or any other facility or individual licensed or certified under this article so long as in compliance with other requirements of this section and article. 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 non-refundable fee of one thousand five hundred dollars per license application or renewal for each applicant filing an application within three years of the effective date of this section and shall charge each applicant a non-refundable fee of one thousand five hundred dollars per license application or renewal thereafter. Once granted, the department shall charge each licensee an annual fee of one thousand five hundred 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. An entity may not be an owner of more than one marijuana microbusiness facility license. An owner of a marijuana microbusiness facility may not also be an owner of another licensed marijuana facility or medical marijuana facility regulated under this article. However, the owner of a marijuana microbusiness facility may apply for a license or licenses for other marijuana or medical marijuana facilities under this article. If granted one or more of these licenses, the marijuana microbusiness facility owner may transition to other licensed operations on a reasonably practical timetable established by the department. In addition to the requirements in this subsection (12), a marijuana micro business facility must obtain a certification as required per this section.

(13) Any entity holding a marijuana microbusiness facility license must be at least seventy-five percent owned and directly controlled by one or more natural persons that have been living in the state of Missouri for at least one year prior to the date of application. Marijuana microbusiness facilities may, but shall not be required to, obtain a certification issued by the department, or any entity or organization designated by the department, attesting to the qualifications of the entity, compliance with department and industry safety, health, ethical and traditionally recognized standards of the cannabis industry, and/or the quality of its marijuana and/or marijuana-infused products.

(14) The department shall begin accepting license and certification applications for marijuana dispensary facilities, marijuana testing facilities, marijuana cultivation facilities, marijuana-infused products manufacturing facilities, marijuana microbusiness facilities, seed-to-sale tracking systems, and for transportation of marijuana no later than two hundred and seventy days after the effective date of this section. Applications for licenses under this section shall be approved or denied by the department no later than ninety days after their submission. If the department fails to carry out its non-discretionary duty to approve or deny an application within ninety days of submission, an applicant may immediately seek a court order compelling the department to approve or deny the application.

(15) The department shall issue marijuana facility licenses in a manner providing special and additional consideration to applicants denied a commercial license under section 1 of this article. Licensees under section 1 of this article may apply for and obtain only one of the same or similar license type under this section. An applicant, including affiliated entities, not awarded any licensure under section 1 shall receive a credit from the department in the amount of any paid non-refundable fees required under section 1 and that credit shall only be applied to the initial application submission process in this section. Subdivision (15) of this subsection shall expire five hundred and fifty days after the effective date of this section.

(16) The department shall ensure rules and emergency rules promulgated under this section incorporating existing environmental and waste disposal laws of this state. The department shall establish a cannabis special waste rule to assist marijuana facilities, marijuana related businesses and ancillary industries comply with all rules and emergency rules promulgated under this section. The department may promulgate rules and emergency rules establishing a special waste permitting or certification program, if necessary, to ensure public health and safety.

(17) A prospective applicant for a license pursuant to subdivision (15) may notify the department of their intent to apply and prefile their application fee with the department by February 1, 2021.

(18) Notwithstanding the provisions of section 1 of this article, if an existing medical marijuana dispensary facility is located in a jurisdiction that prohibits marijuana dispensary facilities under this section, or is otherwise prevented from operating a marijuana dispensary facility at the same location as the existing medical marijuana dispensary facility, the medical marijuana dispensary facility applicant may apply to the department for a marijuana dispensary license pursuant to subdivision (15) of this subsection in a new location, and such application shall be granted so long as the applicant meets all the requirements of this section and department regulation. If an existing medical marijuana dispensary facility is located in a jurisdiction that temporarily prohibits non-medical retail marijuana facilities prior to November 3, 2020, and the medical

marijuana dispensary facility does not apply to open a marijuana dispensary facility in a new location, the medical marijuana dispensary facility may apply to the department for a marijuana dispensary facility license after November 3, 2020, and if the temporary prohibition is not permanently enacted, such application shall be granted, so long as the applicant meets all the requirements of this section and department regulation.

(19) Notwithstanding the provisions of section 1 of this article, three years after receiving a marijuana dispensary facility license pursuant to subdivision (15), a marijuana dispensary facility may apply to the department for permission to relocate the marijuana dispensary facility to a new location.

(20) The department shall issue licenses for marijuana microbusiness facilities to all qualified and certified applicants. Certifications will only be required if determined necessary by the department. If a certification process is determined necessary, it must be promulgated in accordance with the purposes of this section.

(21) The department shall not issue or deny any license if doing so is not in furtherance of the purposes of this article and article II of this constitution.

(22) The department may promulgate rules allowing for the sale, distribution, transport and transfer of marijuana and marijuana-infused products by facilities licensed under this section to facilities licensed under section 1 of this article, if doing so promotes the purposes of this article. The department shall promulgate rules ensuring qualifying patients and qualifying primary caregivers licensed, certified, or otherwise allowed to purchase medical marijuana under section 1 have access to purchase marijuana from facilities licensed under this section. Rules promulgated under this subsection (22) must ensure marijuana transferred pursuant to this section meets the same safety, health and quality standards as required for marijuana cultivated, processed, and sold to qualifying patients and primary caregivers pursuant to section 1 of this article

(23) The department may not promulgate a rule prohibiting a marijuana facility from operating at the same location as a medical marijuana facility of the same license type operating pursuant to section 1 of this article.

(24) Marijuana facilities licensed to distribute marijuana, marijuana-infused products, and marijuana accessories directly to consumers pursuant to this section may also distribute marijuana, marijuana-infused products, and marijuana accessories to qualifying patients and primary caregivers licensed or otherwise allowed to purchase medical marijuana under section 1 of this article.

(25) The department, or a designated association or entity, may charge a fee not to exceed one hundred dollars for all certifications deemed necessary and/or required for marijuana microbusiness facilities. The department may not charge more than five thousand dollars for any other certification issued pursuant to this section.

(26) Until such time that federal law permits otherwise, all marijuana sold in Missouri pursuant to this article shall be cultivated in Missouri. If allowed by federal law, marijuana may be exported from Missouri in accordance with department regulations. If allowed by federal law,

the department may promulgate rules related to the import and export of marijuana and shall promulgate a rule requiring that all marijuana flower imported into Missouri be tested by a certified marijuana testing facility or certified medical marijuana testing facility located in Missouri and comply with Missouri testing standards.

(27) Until such time that federal law permits otherwise, all marijuana-infused products sold in Missouri pursuant to this article shall be manufactured in Missouri. If allowed by federal law, marijuana-infused products may be exported from Missouri in accordance with department regulations. If allowed by federal law, the department may promulgate rules related to the import and export of marijuana-infused products in accordance with the purposes of this section.

(28) The denial of a license or license renewal by the department shall be appealable. The applicant may choose to challenge any denial by the department through the Administrative Hearing Commission, or successor entity. Pursuant to § 536.100 R.S.Mo., or successor provisions, any licensee who has exhausted all administrative remedies provided by law and who is aggrieved by a final decision in a contested case is entitled to judicial review.

(29) No elected official shall interfere directly or indirectly with the department's obligations and activities under this section.

(30) To minimize the potential for undue political influence in awarding licenses, the department shall review license applications using reasonable safeguards that ensure the identity of the applicant and its principal owners, officers and managers are not identified to the application reviewers.

(31) Unless otherwise provided in this section, the department shall have sole authority in this state to issue licenses, certifications, registrations or requirements for marijuana facilities, consumers, and marijuana testing facilities.

(32) The department shall not have the authority to promulgate, apply, or enforce any rule or regulation that is unduly burdensome or act to undermine the purposes of this section.

## **5. Local Control.**

(1) Except as provided in this subsection, a local government may prohibit the operation of all non-medical retail marijuana facilities regulated under this section from being located within its jurisdiction through voter approval of a ballot question submitted to the qualified voters of the local government, provided that any ballot measure shall be voted on only during the regularly scheduled general election held on the first Tuesday after the first Monday in November of an even-numbered year starting in 2022, thereby avoiding any additional local governmental cost or expense. Until the first general election following the general election held November 3, 2020, a local government may through local ordinance temporarily prohibit non-medical retail marijuana facilities regulated under this section from being located within its jurisdiction. When a ballot question prohibiting non-medical retail marijuana facilities regulated under this section is submitted to voters, the following question shall be presented to the voters in the area subject to the prohibition, "Shall (insert name of local government) ban all non-medical retail marijuana facilities from being located within (insert name of local government and, where applicable, its "unincorporated areas") and forgo any additional related local tax revenue? ( ) Yes ( ) No." If a

majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the ban shall go into effect as provided by law. If a question receives less than the required majority, then the jurisdiction shall have no power to ban new non-medical retail marijuana facilities regulated under this section, unless voters at a subsequent election on the first Tuesday after the first Monday in November of an even-numbered year approve a ban on new non-medical retail marijuana facilities submitted to them by the governing body. A local government may repeal an existing ban by its own ordinance or by a vote of the people, either through referral of a ballot question to the voters by the governing body or through citizen petition. In the case of a referral of a ballot question by the governing body or citizen's petition to repeal an existing ban, the question shall be voted on only during the regularly scheduled general election held on the first Tuesday after the first Monday in November of an even-numbered year. A citizen's petition to repeal an existing ban shall be signed by at least five percent of the qualified voters in the area subject to the ban, determined on the basis of the number of votes cast for governor in such locale at the last gubernatorial election held prior to the filing of the petition. The local government shall count the petition signatures and give legal notice of the election as provided by applicable law. Denial of ballot access shall be subject to judicial review. Whether submitted by the governing body or by citizen's petition, the question shall be submitted in the following form: "Shall (insert name of local government) allow non-medical retail marijuana facilities to be located within (insert name of local government and where applicable, its "unincorporated areas") as regulated by state law? ( ) Yes ( ) No." If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the ban shall be repealed.

(2) Unless allowed by the local government, no new marijuana facility shall be initially sited within one thousand feet of any then-existing elementary, preschool or secondary school, child day-care center, or church. The only local government ordinances and regulations that are binding on a marijuana facility are those of the local government where the marijuana facility is located. Except as otherwise provided in this subsection, no local government shall prohibit marijuana 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 marijuana facility or entity holding a transportation certification that may operate in such locality.

## 6. Taxation and Reporting.

(1) A tax shall be levied upon the retail sale of non-medical marijuana sold to consumers at marijuana facilities licensed pursuant to this section within the state. The tax shall be at a rate of ten percent of the retail price or at a rate of one percent less than the current rate established for tobacco products in this state, whichever is less. The tax shall be collected by each licensed non-medical retail marijuana facility and paid to the department of revenue. After retaining no more than two percent of the total tax collected or its actual collection costs, whichever is less, amounts generated by the tax levied in this section shall be deposited by the department of revenue into the "Veterans, Education, Public Welfare, Infrastructure, and Health Fund" created

under this subsection. Licensed entities making non-medical 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 “Veterans, Education, Public Welfare, Infrastructure, and Health 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 moneys 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 be distributed 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 for or through contract or agreement for issuing standards and requirements promulgated pursuant to this section, reviewing applications and verifying compliance with this section, creating safety standards, 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, distributed to the local government where the retail sale occurred, three-fifteenths of the remaining fund balance.

(c) After the distribution to the local government where the retail sale occurred, the remaining fund balance shall be distributed as follows:

- (i) One-sixth of the remainder of the fund balance shall be transferred to the Missouri veterans commission and allied state agencies, as determined by appropriation, exclusively for health care and other services for military veterans and their dependent families;
- (ii) One-twelve of the remainder of the fund balance to the State Road Fund created under article IV, section 30b of this Constitution for constructing and maintaining an adequate system of connected state highways; and
- (iii) One-sixth of the remainder of the fund balance to the department to provide grants to existing agencies and community-based not-for-profits, to increase access to evidence-based low-barrier drug addiction treatment, prioritizing medically proven treatment and overdose prevention and reversal methods and public or private treatment options with an emphasis on reintegrating recipients into their local communities, to support overdose prevention education, and to support job placement, housing, and counseling for those with substance use disorders or similar disabilities.

Agencies and organizations serving populations with the highest rates of drug-related overdose shall be prioritized to receive the grants.

- (iv) One-sixth of the remainder of the fund to provide funding to local agencies, subagencies and/or other governmental or non-profit organizations directly funding educational expenses and costs of public schools in Missouri school districts, with preference given to communities highest percentages of economically disadvantaged families, persons and/or children; and
- (v) One-sixth of the remainder of the fund to provide funding to local, community-based non-profits providing food, housing and employment aid to economically disadvantaged persons in their respective local communities, with preference given to populations with highest percentages of economically disadvantaged families, children and students.

(d) All monies from the taxes and fees authorized hereunder shall provide additional dedicated funding for the purposes enumerated above and shall not replace existing dedicated funding.

(3) For all retail sales of marijuana, a record shall be kept by the seller of 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.

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

## **7. Additional Protections.**

(1) A marijuana testing facility shall not be subject to criminal prosecution, denial of any right or privilege, or disciplinary action by any accreditation or licensing board or commission for providing laboratory testing services that relate to marijuana consistent with this section and otherwise meeting legal standards of professional conduct.

(2) An attorney, and his or her firm, shall not be subject to legal liability, or 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 any person related to activity that is no longer subject to criminal penalties under state law pursuant to this section.

(3) Actions and conduct by marijuana facilities licensed or otherwise certified by 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 liability or sanctions under Missouri law, except as provided for by this section. To ensure protection of public health and welfare, any consumer, qualifying patient, primary caregiver, certificate holder, applicant or licensee harmed as a result of a violation of the provisions of this section shall be entitled to compensation and reasonable costs, including expenses, attorneys' fees and costs to remedy the harm, and as authorized under existing consumer protection laws as of the effective date of section 1 of this article.

(4) The department may not promulgate a rule that requires a consumer to provide a marijuana facility with identifying information other than identification to determine the consumer's age.

(5) It is the public policy of the state of Missouri that contracts related to marijuana that are entered into by marijuana 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 marijuana 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 marijuana may be prohibited by federal law.

## **8. Legislation.**

Nothing in this section shall limit the general assembly from enacting laws consistent with the purposes of this section.

## **9. Additional Provisions.**

(1) No owner of a marijuana facility or entity with a transportation certification shall be an 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 a marijuana offense, other than provision of marijuana to a minor; or
- (b) The person's conviction was for a non-violent crime for which he or she was not incarcerated and that is more than five years old; or
- (c) More than five years have passed since the person was released from Parole or probation, and he or she has not been convicted of any subsequent criminal offenses.

The department may consult with and rely on the records, advice, and recommendations of the attorney general and the department of public safety, or their successor entities, in carrying out the provisions of this subdivision.

(2) All marijuana facilities and certificates shall be held by entities that are at least fifty-five percent owned and directly controlled by natural persons who have been residents of the state of Missouri for at least one year prior to the application for such license or certification.

Notwithstanding the foregoing, persons or entities outside the state of Missouri may own a non-controlling minority stake, indirectly, in such entities. By rule, the department may adjust the percentage of ownership required by residents of the state of Missouri, only if in accordance with the purpose of this section. Owners licensed pursuant to this section shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, shall forward the fingerprints to the Federal Bureau of Investigation (FBI) for the purpose of conducting a fingerprint-based criminal background check. Fingerprints shall be submitted pursuant to § 43.543 R.S.Mo., or successor provisions, and fees shall be paid pursuant to § 43.530 R.S.Mo., or successor provisions.

(3) No marijuana facility shall manufacture, package, or label marijuana or marijuana-infused products in a false or misleading manner. No person shall sell any product in a manner designed to cause confusion between marijuana or a marijuana-infused product and any product not containing marijuana. A violation of this subdivision shall be punishable by an appropriate and proportional department sanction up to and including loss of license.

(4) No marijuana facility may sell edible marijuana-infused candy in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana.

(5) All marijuana and marijuana-infused products shall be sold in individual, child-resistant containers that are labeled with serving amounts, instructions for use, and estimated length of effectiveness. All marijuana and marijuana-infused products shall be sold in containers clearly and conspicuously labeled, as mandated by the department, as containing "Marijuana" or a "Marijuana-Infused Product." Violation of this subdivision shall subject the violator to department sanctions, including an administrative penalty.

(6) A marijuana facility may not allow cultivation, manufacturing, sale, or display of marijuana, marijuana-infused products, or marijuana accessories to be visible from a public place outside of the marijuana facility without the use of binoculars, aircraft, or other optical aids.

(7) A marijuana facility may not cultivate, manufacture, test, sell, or store marijuana at any location other than a physical address approved by the department and within an enclosed area that is secured in a manner that prevents access by persons not permitted by the marijuana facility to access the area.

(8) A marijuana facility shall secure every entrance to the facility so that access to areas containing marijuana is restricted to employees and other persons permitted by the marijuana facility to access the area and to agents of the department or state and local law enforcement

officers and emergency personnel and shall secure its inventory and equipment during and after operating hours to deter and prevent theft of marijuana, marijuana-infused products, and marijuana accessories.

(9) No marijuana facility may refuse representatives of the department the right to inspect the licensed premises or to audit the books and records of the marijuana facility. A facility that holds licenses issued under sections 1 and 2 of this article shall comply with inspection regulations and standards issued pursuant to both sections.

(10) No marijuana facility may allow a person under twenty-one years of age to volunteer or work for the marijuana facility, unless permitted by department regulation.

(11) No marijuana facility, or entity with a 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.

(12) To the fullest extent allowed by the Constitution of the United States, the Constitution of Missouri, and federal law, no unsolicited internet pop-up advertisements, banners on mass-market websites, unsolicited leaflets or handbills, or unsolicited direct mail advertisements for marijuana, marijuana-infused products, or marijuana accessories are permitted, and no off-site advertisement or marketing for marijuana, marijuana-infused products, or marijuana accessories may be placed on any billboard within the state or in any location exposed to view from a public place within one thousand feet of an elementary, preschool or secondary school, child daycare center, or church.

(13) Real and personal property used in the cultivation, manufacture, transport, testing, distribution, sale, and administration of marijuana for activities otherwise in compliance with this section shall not be subject to asset forfeiture solely because of that use.

(14) No person shall extract resins from marijuana using dangerous materials or combustible gases without a marijuana-infused products manufacturing facility license or a marijuana microbusiness license that allows for this activity. Violation of this prohibition shall subject the violator to department sanctions, including an administrative penalty and, if applicable, loss of certificate or license for up to one year.

## **10. Personal Use of Marijuana.**

(1) Subject to the limitations in subsection 3 of this section, the following acts by a person at least twenty-one years of age are not unlawful and shall not be an offense under state law or the laws of any local government within the state or be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government:

(a) Possessing, using, ingesting, inhaling, processing, transporting, delivering without consideration, or distributing without consideration one ounce or less of marijuana, except that not more than the equivalent of one ounce of marijuana, as determined by the department, may be in a concentrated form;

(b) Possessing, planting, cultivating, harvesting, drying, processing, or manufacturing one-half the number of plants a qualifying patient is permitted to cultivate pursuant to section 1 of this article and department regulation, provided:

- a. The plants and any marijuana produced by the plants in excess of one ounce are kept at one private residence, are in a locked space, and are not visible by normal, unaided vision from a public place; and
- b. Not more than twice the number of allowable plants under paragraph (b) of this subdivision are kept in or on the grounds of a private residence at one time.

(c) Assisting another person who is at least twenty-one years of age in, or allowing property to be used for, any of the acts permitted by this section; and

(d) Possessing, using, delivering, distributing, manufacturing, transferring, or selling to persons twenty-one years of age or older marijuana accessories.

(2) A person who, pursuant to this section, cultivates marijuana plants that are visible by normal, unaided vision from a public place is subject to a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana.

(3) A person who, pursuant to this section, cultivates marijuana plants that are not kept in a locked space is subject to a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana.

(4) A person who smokes marijuana in a public place, other than in an area licensed for such activity by the department, is subject to a civil penalty not exceeding one hundred dollars.

(5) A person who is under twenty-one years of age who possesses, uses, ingests, inhales, transports, delivers without consideration or distributes without consideration two ounces or less of marijuana, or possesses, delivers without consideration, or distributes without consideration marijuana accessories is subject to a civil penalty not to exceed one hundred dollars and forfeiture of the marijuana. Any such person shall be provided the option of attending up to four hours of drug education or counseling in lieu of the fine.

(6) Subject to the limitations of this section: a person who possesses not more than twice the amount of marijuana allowed pursuant to this subsection, produces not more than twice the amount of marijuana allowed pursuant to this subsection, delivers without receiving any consideration or remuneration to a person who is at least twenty-one years of age not more than twice the amount of marijuana allowed by this subsection, or possesses with intent to deliver not more than twice the amount of marijuana allowed by this subsection:

(a) For a first violation, is subject to an infraction punishable by a civil penalty not exceeding two hundred and fifty dollars and forfeiture of the marijuana;

(b) For a second violation, is subject to an infraction punishable by a civil penalty not exceeding five hundred dollars and forfeiture of the marijuana;

(c) For a third or subsequent violation, is subject to a misdemeanor punishable by a fine not exceeding one-thousand dollars and forfeiture of the marijuana; and

(d) For a person under twenty-one years of age, is subject to a civil penalty not to exceed two hundred and fifty dollars. Any such person shall be provided the option of attending up to eight hours of drug education or counseling in lieu of the fine.

(7) Any person currently serving a sentence for a conviction, whether by trial, open or negotiated plea or otherwise, who would not have been guilty of an adult or juvenile offense, or who would have been guilty of a lesser adult or juvenile offense had sections 1 and 2 of this article been in effect at the time of the offense, may petition for a recall or dismissal of sentence before the trial court that entered the judgement of conviction in the person's case to request resentencing or dismissal consistent with sections 1 and 2 of this article with credit for time and supervision period already served and such petition shall be granted.

(8) A person arrested, charged, or found guilty, whether by trial, open or negotiated plea or otherwise, for any offense that is no longer a crime after the effective dates of sections 1 and 2 of this article shall have the right to apply for expungement upon the effective date of this section and such expungement shall be granted and the records expunged from all government records. The effect of such order shall be to restore such person to the status the person occupied prior to such arrest, plea or conviction and as if such event had never taken place. No person for whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of the person's failure to recite or acknowledge such arrest, plea, trial, conviction, or expungement in response to any inquiry made of the person for any purpose whatsoever, and no such inquiry shall be made for information relating to an expungement.

(9) A person shall not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by this section, unless not in the best interests of the child as determined by other applicable laws and procedures unrelated to marijuana.

(10) No person shall be denied access to or priority for an organ transplant for conduct that is permitted by this section.

## **11. Severability.**

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

## **12. Effective Date.**

The provisions of this section shall become effective on December 3, 2020, as provided by this Constitution.