JOHN R. ASHCROFT
SECRETARY OF STATE
STATE OF MISSOURI

JAMES C. KIRKPATRICK
STATE INFORMATION CENTER
(573) 751-4936

ELECTIONS DIVISION
(573) 751-2301

July 13, 2021

RECEIVED
JUL 13 2021
STATE AUDITORS OFFICE

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

RE: Petition approval request from Eric McSwain regarding a proposed constitutional amendment to Articles XIV and XIX, version 1 (2022-042)

Dear Auditor Galloway:

Enclosed please find an initiative petition sample sheet for a proposal to amend the Missouri Constitution filed by Eric McSwain on July 13, 2021.

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

22-042

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.

County: _____

INITIATIVE PETITION

Page No: _____

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 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 8th day of November, 2022, 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.

[OFFICIAL BALLOT TITLE]

CIRCULATOR'S AFFIDAVIT

STATE OF MISSOURI, COUNTY OF _____ I, _____ being first duly sworn, say (print names of signers)

RECEIVED 2021 JUL 13 AM 9:03 SEC. OF STATE

NAME (Signature)	DATE Signed	REGISTERED VOTING ADDRESS (Number)(Street), (City, Town Or Village)	ZIP CODE	CONG. DIST.	NAME (Printed or Typed)
1.					
2.					
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signed this page of the foregoing petition, and each of them signed his or her name thereto in my presence; I believe that each has stated his or her name, registered voting address and city, town or village correctly, and that each signer is a registered voter of the state of Missouri and _____County (or city of St. Louis). FURTHERMORE, I HEREBY SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT ALL STATEMENTS MADE BY ME ARE TRUE AND CORRECT AND THAT I HAVE NEVER BEEN CONVICTED OF, FOUND GUILTY OF, OR PLED GUILTY TO ANY OFFENSE INVOLVING FORGERY. I am at least 18 years of age. I do___ do not ___ (check one) expect to be paid for circulating this petition. If paid, list the payer: _____

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

Signature of Affiant (Person obtaining signatures) _____

Printed Name of Affiant _____

Street Address of Affiant _____

City, State and Zip Code of Affiant _____

Signature of Notary _____

Address of Notary _____

(Seal)

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

Section A. Article XIV of the Constitution is revised by amending Section 1, and adopting one new section to be known as Article XIX, Section 2 to read as follows:

Section 1. 1. Purposes.

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

This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their primary caregivers, and their physicians from civil and criminal penalties, and to allow for the **[**limited**]** legal production, distribution, sale and purchase of marijuana for medical use. This section is not intended to change current civil and criminal laws governing the use of marijuana 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 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 cropwide average tetrahydrocannabinol concentration that does not exceed three-tenths of one percent on a dry weight basis**]** **as defined by federal law**, or commodities or products manufactured from industrial hemp **as defined by federal law**.

(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.

(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 a medical marijuana-infused products manufacturing facility.

(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.

(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. **Any health care provider licensed under the laws of the state may also serve as a primary caregiver. A qualifying patient may have up to three primary caregivers.**

(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] **may** 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 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 as a medical marijuana cultivation facility, medical marijuana-infused product manufacturing facility, or medical marijuana dispensary facility.

(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.

(6) Within one hundred eighty days of December 6, 2018, the department shall make available to the public license application forms and application instructions for medical marijuana cultivation

facilities, medical marijuana testing facilities, medical marijuana dispensary facilities, and medical marijuana-infused products manufacturing facilities.

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

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

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

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

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

(12) Except for good cause, a qualifying patient or his or her primary caregiver may obtain an identification card from the department to cultivate up to [six flowering marijuana plants] **fifty square feet of canopy space** for the [exclusive use] **benefit** of that qualifying patient. The card

shall be valid for twelve months from its date of issuance and shall be renewable with the annual submittal of a new or updated physician's certification. The department shall charge an annual fee for the card of [one hundred] **twenty-five** 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. **In no case shall any qualifying patient cultivate more than fifty square feet of canopy space regardless of the number of primary caregivers assigned to said qualifying patient.**

(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. **In no case shall the total amount of medical marijuana attributed to a single qualifying patient in the possession of multiple primary caregivers exceed the limit set by the department.** Qualifying patients cultivating marijuana for medical use may possess up to a [ninety-day] **one year** supply, so long as the supply remains **secured** 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 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. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(16) The department may 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. A decrease in the number of inhabitants in the state of Missouri shall have no impact.

(17) The department may 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. 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. 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. The department shall charge a fee of twenty-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 **not to exceed twenty percent of net deposits which is** necessary for the department to carry out this section, including repayment of any cash operating transfers, payments made through contract or agreement with other state and public agencies

necessary to carry out this section, and a reserve fund to maintain a reasonable working cash balance for the purpose of carrying out this section;

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

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

(3) For all retail sales of marijuana for medical use, a record shall be kept by the seller which identifies, by secure and encrypted patient number issued by the seller to the qualifying patient involved in the sale, all amounts and types of marijuana involved in the sale and the total amount of money involved in the sale, including itemizations, taxes collected and grand total sale amounts. All such records shall be kept on the premises in a readily available format and be made available for review by the department and the department of revenue upon request. Such records shall be retained for five years from the date of the sale.

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

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

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

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

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

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

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

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

(4) A health care provider**, including individuals licensed under chapter 335 or 337 or their successor statutes,** shall not be subject to civil or criminal prosecution under Missouri law, denial of any right or privilege, civil or administrative penalty or sanction, or disciplinary action by any

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

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

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

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

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

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

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

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

6. Legislation.

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

7. Additional Provisions.

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

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

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

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

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

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

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

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

(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 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 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 own a minority stake 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, 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**]** **ten** 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 qualifying] **Qualifying** patients **and care givers**, who [both] hold valid qualifying patient cultivation identification cards, may share one enclosed, locked facility. **No shared facility may contain more than five thousand square feet of canopy space without obtaining a medical marijuana cultivation facility license.** [No more than twelve qualifying patient or primary caregiver cultivated flowering marijuana plants may be cultivated in a single, enclosed locked facility, except when a primary caregiver also holds a qualifying patient cultivation identification card, in which case no more than eighteen flowering marijuana plants may be cultivated in a single, enclosed, locked facility.]

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

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

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

(13) A physician shall not issue a certification for the medical use of marijuana for a nonemancipated qualifying patient under the age of eighteen without the written consent of the qualifying patient's parent or legal guardian. The department shall not issue a qualifying patient identification card on behalf of a nonemancipated qualifying patient under the age of eighteen without the 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.] **At least one of the primary caregivers for a nonemancipated qualifying patient under the age of eighteen must be a parent or legal guardian.** Only the qualifying patient's [parent or guardian] **primary caregiver** shall purchase or possess medical marijuana for a nonemancipated qualifying patient under the age of eighteen. A [parent or guardian] **primary caregiver** 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.

1. Purpose

This section is intended to permit the safe and legal use of cannabis by adults over the age of twenty-one and to reasonably regulate the cultivation, processing, manufacturing, and distribution of cannabis. The people of Missouri have a right to enjoy the benefits of their labor free from unreasonable regulation. This section creates a legal, regulated, and taxed cannabis industry so Missouri businesses can participate in the growing market, and the state can reduce the burden on the budget and criminal justice system caused by the prosecution and incarceration of non-violent cannabis possession and distribution.

This section is not intended to supplant the medical marijuana market. The medical marijuana market is a necessary and important part of many patients' treatment plans. Care guided by a health care provider is important when cannabis is used in an intensive and therapeutic manner.

This section is intended to make only those changes to Missouri laws that are necessary to protect consumers and businesses in the cannabis industry from civil and criminal penalties; and to allow for the responsible consumption of cannabis, combat illegal underage consumption of cannabis, and achieve other important state policy goals such as maintaining an orderly marketplace composed of state-licensed cannabis cultivators, manufacturers, transporters, hospitality establishments, and retailers. This section is not intended to allow for the unregulated public use of cannabis; the operation of any dangerous device or motor vehicle, aircraft or motorboat while under the influence of marijuana; the use of cannabis in the workplace; or the use of cannabis by persons under twenty-one years of age.

2. Definitions.

(1) "Adult use" means the production, possession, delivery, distribution, transportation, or ingestion of cannabis or a cannabis-infused product, or drug paraphernalia used to ingest cannabis or a cannabis-infused product, by a person over the age of twenty-one for purposes other than those provided for in Article XIV Section 1.

(2) "Cannabis" means *Cannabis indica, Cannabis sativa, and Cannabis ruderalis*, hybrids of such species, and any other strains commonly understood within the scientific community to constitute cannabis, hemp, or marijuana. "Cannabis" includes resin extracted from the plant and cannabis-infused products. "Cannabis" does not include industrial hemp as defined by Federal law or commodities or products manufactured from industrial hemp as defined by Federal law. "Cannabis" does not include parts of the plant that do not contain tetrahydrocannabinol (THC) or the soil or substrate in which the plants were grown.

(3) "Cannabis-infused products" means products that are infused with cannabis or an extract thereof and are intended for ingestion other than by smoking, including, but not limited to, edible products, ointments, tinctures and concentrates.

(4) "Cannabis cultivation facility" means a facility licensed by the division to acquire, cultivate, process, store, package, transport, and sell cannabis to or from a cannabis retail facility, cannabis testing facility, cannabis manufacturing facility, or another cannabis cultivation facility.

(5) "Cannabis hospitality facility" means a facility certified by the division to permit the consumption of cannabis by consumers or qualifying patients on the premises.

(6) "Cannabis manufacturing facility" means a facility licensed by the division to acquire, process, manufacture, produce, store, package, transport, and sell cannabis and paraphernalia used to ingest cannabis as provided for in this section to or from a cannabis retail facility, cannabis testing facility, cannabis cultivation facility, or another cannabis manufacturing facility.

(7) "Cannabis retail facility" means a facility licensed by the division to acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to a consumer, and acquire, store, package, sell, transport, and deliver cannabis, cannabis-infused products, and paraphernalia used to ingest cannabis as provided for in this section to or from another cannabis retail facility, a cannabis testing facility, cannabis manufacturing facility, or a cannabis cultivation facility.

(8) "Cannabis testing facility" means a facility certified by the division or the division of health and senior services to acquire, test, certify, and transport cannabis.

(9) "Child-Resistant Packaging" means resealable packaging that is opaque and is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use.

(10) "Consumer" means a natural person over the age of twenty-one.

(11) "Delivery" means the delivery of cannabis from a cannabis retail facility to a consumer.

(12) "Disqualifying felony" means any dangerous felony as defined by the laws of this state, but shall not include any felony which is based on the possession or distribution of cannabis unless such act included the distribution of cannabis to a person under the age of seventeen and more than two years younger than the person being charged.

(13) "Division" means the division of alcohol and tobacco control within the department of public safety, or its successor division.

(14) "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.

(15) "Flowering plant" means a cannabis plant from the time it shows physical signs of flowering or budding out of the nodes of the stem through harvest.

(16) "Historically Marginalized Population" means African American and Hispanic populations.

(17) "Ingest" means any method of introducing cannabis or its chemical components into the human body including but not limited to:

(a) Ingestion of capsules, teas, oils, and other cannabis-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; or

(e) Consuming cannabis-infused food products.

(18) "Local Government" means a county, township, city, town, village, or municipality.

(19) "Transportation" means the movement of cannabis between licensed facilities. "Transportation" includes the delivery of cannabis to a cannabis retail facility but does not include delivery of cannabis directly to a consumer.

3. Regulation

In carrying out the implementation of this section, the division shall have the authority to:

(1) Grant or refuse state licenses and certifications for the cultivation, manufacture, dispensing, sale, testing, tracking, transportation, delivery, and hospitality of cannabis for adult use in accordance with this section; 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.

(2) Promulgate rules and emergency rules necessary for the proper regulation and control of the cultivation, manufacture, sale, transportation, and delivery of cannabis for adult use, and for the enforcement of this section, so long as access is not restricted unreasonably and such rules are reasonably necessary for consumer safety or to restrict access to only persons over twenty-one years of age. Such rules may include provisions related to:

(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 division;

(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;

(e) Creation of a range of administrative penalties for use by the division;

(f) Prohibition of misrepresentation and unfair practices;

(g) Regulation 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 cannabis retail facility, product display and examination by a consumer, listings in business directories including online directories and phone books, listings in cannabis-related publications and websites, or the sponsorship of health or not for profit charity or advocacy events;

(h) Development of identification cards for entities licensed or certified pursuant to this section, including a fingerprint-based criminal background check for owners, officers, and managers of such entities.

(i) Develop such forms, certificates, licenses, and applications, which may be provided in electronic or digital format, as are necessary for, or reasonably related to, the administration of this section or any of the rules promulgated under this section;

(j) Requirements for any entity licensed or certified by the division to create and follow security policies that prevent access to cannabis by any person under the age of twenty-one; prevent entry by any person not authorized by the division or the license holder into areas where cannabis is being cultivated, manufactured, or stored; and provide immediate notice to the entity or their designated agent of any attempt by a person to gain unauthorized or illegal access to cannabis or any area where cannabis is being cultivated, manufactured, or stored;

(k) Regulation of the storage of, warehouses for, and transportation of cannabis for adult use;

(l) Sanitary requirements for, including, but not limited to, the preparation of cannabis-infused products;

(m) The specification of acceptable forms of identification that a cannabis retail facility may accept when verifying a sale;

(n) Labeling and packaging standards that require child-resistant packaging provided that the rules may not unreasonably restrict branding and marketing information that is not misleading and is

designed to make a product recognizable and distinguish it from similar products sold by competitors;

(o) Records to be kept by licensees and the required availability of the records;

(p) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;

(q) The reporting and transmittal of tax payments;

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

(s) Ensure an adequate supply of cannabis for medical use, including but not limited to regulations that require facilities to maintain an adequate supply of cannabis for medical use based on sales history and requiring contracts to supply cannabis for medical use to take precedence over contracts to supply cannabis for adult use; and

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

(3) Require a seed-to-sale tracking system that tracks cannabis from either the seed or immature plant stage until the cannabis is sold to a consumer to ensure that no cannabis grown by a cannabis cultivation facility or manufactured by a cannabis manufacturing facility is sold or otherwise transferred to a consumer except by a cannabis retail facility or certified delivery entity. The division 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. The division may coordinate with the department of health and senior services to utilize the same seed to sale tracking system as is used to track marijuana for medical use;

(4) Prepare and transmit annually a publicly available report accounting to the governor for the efficient discharge of all responsibilities assigned to the division under this section.

(5) If the division fails to promulgate rules and issue licenses specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(6) The division shall not have the authority to apply or enforce any rule or regulation that would require additional fees for applicants, license holders, or certificate holders; impose an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose an undue burden if it imposes restrictions that are greater than those imposed on the manufacture and sale of alcoholic beverages.

4. Licensing

(1) Cannabis transportation and delivery certifications may be issued as follows. The division shall certify entities which demonstrate compliance with its transportation and delivery standards to transport or deliver cannabis. The division shall issue standards for the secure transportation and delivery of cannabis. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the transportation and delivery of cannabis but shall not impose standards that make the transportation or delivery of cannabis impracticable. There shall be no additional fee for a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility to be certified for transportation or delivery.

(2) Cannabis testing certification and standards may be issued as follows. The division shall certify cannabis testing facilities which demonstrate compliance with its rules for independent testing and certification of cannabis. The division shall issue rules or emergency rules establishing standards for a cannabis independent testing and certification program for cannabis licensees and requiring licensees to test cannabis 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. However, the rules shall not

impose any requirements that make it impracticable for an otherwise qualified facility to obtain certification. The division shall not require any cannabis to be tested more than once prior to sale. No cannabis testing facility shall be owned by an entity under substantially common control, ownership, or management as a cannabis cultivation, manufacturing, or retail facility licensed under this section or a medical marijuana cultivation, manufacturing, or dispensary facility licensed under Article XIV section 1. Testing facilities licensed under Article XIV section 1 shall be automatically certified to test cannabis under the rules issued by the division for the testing of cannabis for adult use.

(3) Cannabis hospitality facility certification may be issued as follows. The division shall certify entities which demonstrate compliance with its hospitality standards to allow for the consumption of cannabis on its premises. The division shall issue standards for the safe consumption of cannabis at locations other than a private residence. The standards shall allow for the facility to sell or provide food and beverages, including alcoholic beverages. The division may develop or adopt from any other governmental agency such safety and security standards as are reasonably necessary for the safe consumption of cannabis at a location other than a private residence, but shall not impose standards that make the operation of a cannabis hospitality facility impracticable.

(4) Cannabis cultivation facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to grow cannabis as a cannabis cultivation facility. Each facility in operation shall require a separate license, but multiple licenses may be utilized in a single location. Each facility may be limited by the division to not less than thirty thousand square feet of flowering plant canopy space. Facilities may choose to grow indoors using artificial light, outdoors, in a greenhouse utilizing a combination of artificial and natural light, or any combination of methods. The license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana cultivation facility may also apply for a cannabis cultivation facility license at the same location.

(5) Cannabis manufacturing facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis manufacturing facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana manufacturing facility may also apply for a cannabis manufacturing facility license at the same location.

(6) Cannabis retail facility licenses may be issued as follows. An entity may apply to the division for and obtain one or more licenses to operate a cannabis retail facility. Each facility in operation shall require a separate license. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. An entity currently licensed as a medical marijuana dispensary facility may also apply for a cannabis retail facility license at the same location.

(7) The division may charge an application or renewal fee for each license type not to exceed two thousand five hundred dollars. Application and 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. Division of Labor, or its successor agency. Applications re-submitted after a denial shall not be charged an additional application fee, but may be charged a fee of not more than five hundred dollars for a re-submitted application.

(8) The division may charge a certification and renewal fee for each certification type not to exceed one thousand dollars. Application and 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. Division of Labor, or its successor agency.

(9) An entity may apply for a reduced application or renewal fee. The division shall develop rules to determine the eligibility of an applicant for a reduced fee. The rules shall include consideration for entities:

(a) locating in an area that has an unemployment rate above the national average;

(b) locating in an area that has been designated as an Economic Disadvantaged Zone by the US Division of Commerce;

(c) owned and operated by individuals in protected classes;

(d) owned and operated by veterans;

(e) owned or operated by an entity that was previously denied a medical marijuana facility license based on application score; or

(f) any other factors that would promote the inclusion of small and locally owned businesses and individuals in historically marginalized groups.

(10) All owners, officers, managers, and employees of entities licensed or certified pursuant to this section, shall submit fingerprints to the Missouri state highway patrol for the purpose of conducting a fingerprint-based criminal background check. The Missouri state highway patrol, if necessary, may 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. Notwithstanding the provisions of section 610.120, all records related to any criminal history information shall be available to the division. The criminal background check may be requested by the applicant or employer and performed up to ninety days prior to the submission of an application for license, certification, or employment.

(11) The division shall maintain the confidentiality of 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 customer information, or any other records that are exempt from public inspection pursuant to state or federal law. Such information may be used only for a purpose authorized by this section.

(12) The division shall begin accepting license and certification applications not later than August 1, 2023. In order to facilitate the initial costs of regulation, the division may accept application fees beginning January 15, 2023 and shall apply such fees to applications submitted after August 1, 2023. Applications for licenses and certifications under this section shall be approved or denied by the division no later than ninety days after their submission. If the division fails to carry out its nondiscretionary duty to approve or deny an application within ninety days, the application or certification is deemed granted for one year or until revoked for good cause.

(13) There shall be no limit on the number of facility licenses or certifications issued by the division.

(14) Applications for any facility license shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and site security plan;

(ii) A seed to sale tracking system;

(iii) A method for verifying the age or medical marijuana status of any consumer;

(iv) Employment policies that are non-discriminatory and require fingerprint background checks prior to beginning employment at the facility;

(v) A plan to dispose of excess product in the event of the facility closing which may be satisfied by a plan to sell or donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where un-packaged cannabis flower or cannabis-infused products are being prepared or packaged;

(vii) Labeling and packaging policies that are not misleading, are not likely to be confused with non-cannabis containing products, and are designed to make a product recognizable and distinguish it from similar products sold by competitors;

(viii) Record retention policy that allows for the inspection of records of purchases and sales for at least the preceding twenty-four months; and

(ix) Certification that any contracts to supply cannabis for medical use will take precedence over contracts to supply cannabis for adult use.

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(d) The applicant has verified its anticipated location is properly zoned and not within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church; and

(e) The applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(15) Applications for any transportation, delivery, testing, or hospitality certification shall be approved if the applicant can meet the following criteria:

(a) The applicant certifies that they have the following policies and procedures in place:

(i) A loss prevention and security plan suitable to the type of certification;

(ii) For testing certifications, an inventory tracking system;

(iii) For hospitality and delivery certifications, a method for verifying the age or medical marijuana patient status of any consumer;

(iv) Employment policies that are non-discriminatory;

(v) A plan to dispose of unused or undelivered product which may be satisfied by a plan to donate excess products to the compassionate care program established in this section;

(vi) Sanitation policies for any area where cannabis flower or cannabis-infused products are being tested or consumed;

(b) All owners, officers, and managers are over twenty-one years of age and have submitted to a fingerprint background check and have not been convicted of any disqualifying felonies;

(c) The applicant has designated a natural person as a registered agent with the Missouri secretary of state;

(e) For testing facilities, the applicant certifies that they will not begin operations until after a commencement inspection as required by the division. Commencement inspections must be completed within thirty days of an applicant's request for such inspection.

(16) A single entity may hold multiple licenses or certifications and may operate under such licenses at a single location. However, a cannabis hospitality facility certification shall not be issued for a location in which a cannabis cultivation facility, a cannabis manufacturing facility, or a cannabis retail facility is in operation.

(17) Facilities licensed under Article XIV Section 1 may also apply for and be granted licenses and certifications under this section.

5. Taxation and Funding

(1) Application and renewal fees collected by the division shall be used for the administration of this section. If such fees are insufficient to provide for the administration of this section, the division may apply to the Missouri Economic Recovery and Growth Fund for a cash operating transfer which shall be repaid as provided by law.

(2) A tax is hereby levied upon the retail sale of cannabis for adult use sold at cannabis retail facilities within the state.

(a) The tax shall be at a rate of seven and one-half percent of the retail price.

(b) The tax shall be collected by each licensed cannabis retail facility and paid to the department of revenue. After retaining no more than two percent of the amount collected 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 Economic Recovery and Growth 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.

(c) Such tax shall not be levied on wholesale sales of cannabis for adult use or any cannabis which is transferred from a cannabis retail facility to a cannabis cultivation or manufacturing facility.

(3) There is hereby created in the state treasury the "Missouri Economic Recovery and Growth Fund", which shall consist of taxes 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. The commissioner of administration is authorized to make cash operating transfers to the fund for purposes of meeting the cash requirements of the division 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) One-third of all monies collected shall be distributed to state agencies and political subdivisions for:

(i) the provision and expansion of internet access as a public utility;

(ii) the repair and improvement of existing roads and bridges; or

(iii) the repair and improvement of other public utility services including but not limited to water, sewer, and electricity; and

(b) One-third of all monies collected shall be distributed by the division, with the input of an advisory board at least one third of whose members are health care professionals with experience in the medical use of cannabis, through grants to state agencies, educational institutions, and not-for-profit organizations to:

(i) increase access to evidence-based low-barrier drug addiction treatment; to support drug overdose prevention and reversal education;

(ii) support job placement, housing, and ongoing counseling for those with substance abuse disorders; or

(iii) to provide free legal assistance to individuals seeking to expunge a criminal record or who have been charged with a drug-related crime;

(iv) provide funding for research into the effects of cannabis on the human body, detection of active tetrahydrocannabinol (THC) levels in the human body, and the potential uses of cannabis in psychiatric or substance abuse treatment; and

(c) One-third of all monies collected shall be distributed by the division through grants to not-for-profit organizations that:

(i) provide zero percent interest rate loans or grants to small businesses that are owned by individuals who are members of a historically marginalized population; or

(ii) provide cannabis industry training programs for incarcerated or formerly incarcerated individuals.

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

(5) The unexpended balance existing in the Missouri Economic Recovery and Growth Fund shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund until the end of the 2028 fiscal year.

(6) Except as authorized in this subsection, no additional taxes shall be imposed on the sale of cannabis for adult use.

(7) The fees and taxes provided for in this Article XIV, Section 2 shall be fully enforceable notwithstanding any other provision in this Constitution purportedly prohibiting or restricting the taxes and fees provided for herein.

(8) A local government may impose a retail sales taxes on the retail sale of cannabis for adult use. Such taxes shall be imposed in the same way as provided for other retail sales taxes in law. Local taxes imposed on the retail sale of cannabis for adult use shall not exceed those imposed by the same jurisdiction on the retail sale of alcoholic beverages or other retail sales whichever is higher.

(9) Any consumer who presents a duly issued medical marijuana patient identification card or a medical marijuana primary caregiver identification card shall not pay the sales tax provided for in this section, but shall pay the sales tax required for medical marijuana sales in Article XIV Section 1.

6. Public Safety

(1) 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 cannabis.

(2) A criminal conviction for an intoxication related offense shall require a showing that the person was actually impaired at the time the offense occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show actual impairment.

(3) An allegation of negligence while under the influence of cannabis shall require a showing that the person was actually under the influence of cannabis at the time the negligence occurred. Evidence of the presence of inactive tetrahydrocannabinol (THC) metabolites in the person's system shall not be sufficient to show the person was actually under the influence.

(3) A consumer may cultivate up to twenty-five square feet of flowering canopy of cannabis for adult use in any space owned or leased by said consumer. The space in which cannabis for adult use is being cultivated must be secured against entry by unauthorized individuals including individuals under twenty-one years of age. Such cannabis shall not be provided for sale to any individual but may be sold or donated through the compassionate care program established in this section.

(4) A consumer may possess the following amounts of cannabis at any one time:

(a) up to eight ounces of dried unprocessed flower;

(b) up to twenty-eight grams of concentrated resin or extract; and

(c) up to four thousand milligrams of tetrahydrocannabinol in cannabis-infused products.

(5) No individual who is under twenty-one years of age may possess cannabis in any amount unless such individual is in possession of a medical marijuana patient or primary caregiver license issued pursuant to Article XIV Section 1.

(6) The legislature may pass criminal statute related to the possession, delivery, or distribution of cannabis in excess of the limits provided for in this section without the appropriate license. However, in no case shall the possession, delivery, or distribution of cannabis in an amount less than two times the limits provided for in this section be deemed a felony unless such delivery or distribution was to a person under twenty-one years of age. Any existing laws which criminalize possession, delivery, or distribution of cannabis in amounts less than the limits provided for in this section are hereby declared null and void unless such delivery or distribution was to a person under twenty-one years of age.

(7) Any individual convicted for a crime, other than a dangerous felony or the delivery or distribution to a person under seventeen years of age and more than two years younger than the person being charged, may file for release from custody and expungement of their criminal record in the jurisdiction in which the conviction occurred. Such release from custody shall be expedited and shall be granted unless the person seeking release is incarcerated for additional crimes. Such expungement shall be granted as a matter of right and shall not affect an individual's ability to seek expungement of other offenses under the laws of this state. The supreme court shall make available to the public free of charge forms for a release from custody or the expungement of such offenses. The filing fee for a motion or new cause of action under this subsection shall be no more than the filing fee for actions brought in the small claims court of the same jurisdiction.

(8) The presence or the smell of cannabis shall not be sufficient probable cause for a law enforcement officer to detain or search a person for reasons other than a suspected intoxication offense, or to impound or search the vehicle, residence, or other property of a consumer. Any search or arrest warrant issued for violations of this section or other cannabis laws not in conflict with this section shall require evidence of the violation and shall not be issued on the basis of the presence of cannabis alone. No search or arrest warrant shall be issued based on violations of this section or other cannabis laws not in conflict with this section that would allow law enforcement officers to enter a premises without first knocking and announcing their presence and purpose.

(9) The division shall develop in coordination with the Missouri department of health and senior services a compassionate care program through which cannabis may be tested and sold or donated to a cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility by any consumer, cannabis cultivation facility, cannabis manufacturing facility, or cannabis retail facility. Any facility that receives excess cannabis through such program must make any cannabis received through the program available free of charge to qualifying patients and primary caregivers who meet financial need and health necessity criteria. Each facility may develop its own criteria, but in no case shall cannabis be provided free of charge to any individual who is not in possession of a medical marijuana patient or primary caregiver identification card.

7. Local Control

(1) Unless allowed by the local government, no new cannabis cultivation facility, cannabis testing facility, cannabis retail facility, or cannabis manufacturing facility shall be initially sited within one thousand feet of any then-existing elementary or secondary school, child day-care center, or church. A local government may allow for a location closer than one thousand feet but may not impose any restriction greater than one thousand feet.

(2) No local government shall prohibit cannabis cultivation facilities, cannabis testing facilities, cannabis manufacturing facilities, or cannabis retail facilities, or entities with a transportation or hospitality certification from operating within the locality either expressly or through the enactment of ordinances, including but not limited to zoning ordinances, or regulations that make their operation unduly burdensome in the locality. 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 so long as such ordinances or regulations are not more restrictive than those imposed on the manufacture or sale of alcoholic beverages.

(3) Local governments shall develop and adopt ordinances and policies related to cannabis facilities and certificate holders no later than June 30, 2023. The local government shall not adopt ordinances or policies that would impose an excessive fees or an undue burden on any one or more licensees or certificate holders; create an undue burden on access to consumers; or act to undermine the purposes of this section. A rule or regulation shall be presumed to impose excessive fees or an undue burden if it imposes fees higher than or restrictions greater than those imposed on the manufacture and sale of alcoholic beverages.

(4) If the local government fails to adopt ordinances and policies specific to cannabis for adult use prior to June 30, 2023, the rules and regulations for the location and licensing of alcoholic beverage manufacturing and sale shall apply to cannabis facilities wherever possible.

(3) Local governments may require cannabis cultivation facilities, cannabis manufacturing facilities, cannabis retail facilities, cannabis transportation or delivery certificate holders, cannabis hospitality certificate holders to be licensed businesses under the local ordinances. However no local government shall require an additional fee to be paid or additional special license to be acquired by a cannabis license or certificate holder that is not required for other businesses in the jurisdiction.

(4) 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 manufacturing facility, medical marijuana dispensary facility, or entity holding a transportation certification that may operate in such locality so long as such penalties are not greater than those imposed on the manufacture or sale of alcoholic beverages.

8. Other Provisions

(1) All cannabis for adult use sold in Missouri shall be cultivated in a licensed cultivation facility located in Missouri or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis.

(2) All cannabis-infused products for adult use sold in the state of Missouri shall be manufactured in a licensed manufacturing facility or a licensed facility located in another state if federal law allows for the interstate transportation of cannabis-infused products.

(3) A cannabis 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 adult use of cannabis consistent with this section and otherwise meeting legal standards of professional conduct.

(4) An attorney shall not be subject to disciplinary action by the state bar association or other professional licensing body for being employed by, contracting with, or providing legal assistance to facilities licensed or certified under this section, entities applying for licensing or certification under this section, or any individual seeking legal advice related to activity that is no longer subject to civil or criminal penalties under state law pursuant to this section.

(5) Except as provided for by this section, actions and conduct by consumers, facilities licensed or certified under this section, or the employees, contractors, vendors, or agents of facilities licensed or certified under this section, as permitted by this section and in compliance with division regulations and other provisions of law, shall not be subject to criminal or civil liability or sanctions under Missouri law including but not limited to disciplinary action against a professional license, denial of public assistance programs or public services, or denial of a license to operate a vehicle, watercraft, or other equipment.

(6) It is the public policy of the state of Missouri that contracts related to cannabis for adult use that are entered into by consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail 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 consumers, cannabis testing facilities, cannabis transportation or delivery facilities, cannabis

hospitality facilities, cannabis cultivation facilities, cannabis manufacturing facilities, or cannabis retail 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 cannabis may be prohibited by federal law.

(7) No mandatory reporter under the laws of this state shall be required to report the adult use of cannabis by a parent or prospective parent unless such use is in violation of this section or the parent is actively endangering the health and safety of a child. A prospective foster or adoptive parent shall not be discriminated against for their use of cannabis for non-medical purposes unless such use is in violation of this section or other provisions of law not in conflict with this section.

(8) The denial of a license, license renewal, or identification card by the division 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 division shall be subject to judicial review as provided by law.

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

9. 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.