

SENATE BILL NO. 546

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BEAN.

2115S.01H

KRISTINA MARTIN, Secretary

AN ACT

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

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

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2 261.265, RSMo, are repealed, to read as follows:

[192.945. 1. As used in this section, the
2 following terms shall mean:

3 (1) "Department", the department of health
4 and senior services;

5 (2) "Hemp extract", as such term is
6 defined in section 195.207;

7 (3) "Hemp extract registration card", a
8 card issued by the department under this section;

9 (4) "Intractable epilepsy", epilepsy that
10 as determined by a neurologist does not respond
11 to three or more treatment options overseen by
12 the neurologist;

13 (5) "Neurologist", a physician who is
14 licensed under chapter 334 and board certified
15 in neurology;

16 (6) "Parent", a parent or legal guardian
17 of a minor who is responsible for the minor's
18 medical care;

19 (7) "Registrant", an individual to whom
20 the department issues a hemp extract
21 registration card under this section.

22 2. The department shall issue a hemp
23 extract registration card to an individual who:

24 (1) Is eighteen years of age or older;

25 (2) Is a Missouri resident;

26 (3) Provides the department with a
27 statement signed by a neurologist that:

28 (a) Indicates that the individual suffers
29 from intractable epilepsy and may benefit from
30 treatment with hemp extract; and

31 (b) Is consistent with a record from the
32 neurologist concerning the individual contained
33 in the database described in subsection 9 of
34 this section;

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

35 (4) Pays the department a fee in an amount
36 established by the department under subsection 6
37 of this section; and

38 (5) Submits an application to the
39 department on a form created by the department
40 that contains:

41 (a) The individual's name and address;

42 (b) A copy of the individual's valid photo
43 identification; and

44 (c) Any other information the department
45 considers necessary to implement the provisions
46 of this section.

47 3. The department shall issue a hemp
48 extract registration card to a parent who:

49 (1) Is eighteen years of age or older;

50 (2) Is a Missouri resident;

51 (3) Provides the department with a
52 statement signed by a neurologist that:

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

56 (b) Is consistent with a record from the
57 neurologist concerning the minor contained in
58 the database described in subsection 9 of this
59 section;

60 (4) Pays the department a fee in an amount
61 established by the department under subsection 6
62 of this section; and

63 (5) Submits an application to the
64 department on a form created by the department
65 that contains:

66 (a) The parent's name and address;

67 (b) The minor's name;

68 (c) A copy of the parent's valid photo
69 identification; and

70 (d) Any other information the department
71 considers necessary to implement the provisions
72 of this section.

73 4. The department shall maintain a record
74 of the name of each registrant and the name of
75 each minor receiving care from a registrant.

76 5. The department shall promulgate rules
77 to:

78 (1) Implement the provisions of this
79 section including establishing the information
80 the applicant is required to provide to the
81 department and establishing in accordance with
82 recommendations from the department of public
83 safety the form and content of the hemp extract
84 registration card; and

85 (2) Regulate the distribution of hemp
86 extract from a cannabidiol oil care center to a
87 registrant, which shall be in addition to any
88 other state or federal regulations; and
89 The department may promulgate rules to authorize
90 clinical trials involving hemp extract.

91 6. The department shall establish fees
92 that are no greater than the amount necessary to
93 cover the cost the department incurs to
94 implement the provisions of this section.

95 7. The registration cards issued under
96 this section shall be valid for one year and
97 renewable if at the time of renewal the
98 registrant meets the requirements of either
99 subsection 2 or 3 of this section.

100 8. The neurologist who signs the statement
101 described in subsection 2 or 3 of this section
102 shall:

103 (1) Keep a record of the neurologist's
104 evaluation and observation of a patient who is a
105 registrant or minor under a registrant's care
106 including the patient's response to hemp
107 extract; and

108 (2) Transmit the record described in
109 subdivision (1) of this subsection to the
110 department.

111 9. The department shall maintain a
112 database of the records described in subsection
113 8 of this section and treat the records as
114 identifiable health data.

115 10. The department may share the records
116 described in subsection 9 of this section with a
117 higher education institution for the purpose of
118 studying hemp extract.

119 11. Any rule or portion of a rule, as that
120 term is defined in section 536.010, that is
121 created under the authority delegated in this
122 section shall become effective only if it
123 complies with and is subject to all of the
124 provisions of chapter 536 and, if applicable,
125 section 536.028. This section and chapter 536
126 are nonseverable and if any of the powers vested
127 with the general assembly pursuant to chapter
128 536 to review, to delay the effective date, or
129 to disapprove and annul a rule are subsequently
130 held unconstitutional, then the grant of
131 rulemaking authority and any rule proposed or
132 adopted after July 14, 2014, shall be invalid
133 and void.]

2 [192.947. 1. No individual or health care
3 entity organized under the laws of this state
4 shall be subject to any adverse action by the
5 state or any agency, board, or subdivision
6 thereof, including civil or criminal
7 prosecution, denial of any right or privilege,
8 the imposition of a civil or administrative
9 penalty or sanction, or disciplinary action by
10 any accreditation or licensing board or
11 commission if such individual or health care
12 entity, in its normal course of business and
13 within its applicable licenses and regulations,
acts in good faith upon or in furtherance of any

14 order or recommendation by a neurologist
15 authorized under section 192.945 relating to the
16 medical use and administration of hemp extract
17 with respect to an eligible patient.

18 2. The provisions of subsection 1 of this
19 section shall apply to the recommendation,
20 possession, handling, storage, transfer,
21 destruction, dispensing, or administration of
22 hemp extract, including any act in preparation
23 of such dispensing or administration.

24 3. Notwithstanding the provisions of
25 section 538.210 or any other law to the
26 contrary, any physician licensed under chapter
27 334, any hospital licensed under chapter 197,
28 any pharmacist licensed under chapter 338, any
29 nurse licensed under chapter 335, or any other
30 person employed or directed by any of the above,
31 which provides care, treatment or professional
32 services to any patient under section 192.945
33 shall not be liable for any civil damages for
34 acts or omissions unless the damages were
35 occasioned by gross negligence or by willful or
36 wanton acts or omissions by such physician,
37 hospital, pharmacist, nurse, or person in
38 rendering such care and treatment.]

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

7 (1) Is composed of no more than three-
8 tenths percent tetrahydrocannabinol by weight;

9 (2) Is composed of at least five percent
10 cannabidiol by weight; and

11 (3) Contains no other psychoactive
12 substance.

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

21 (1) Possesses or uses the hemp extract
22 only to treat intractable epilepsy as defined in
23 section 192.945;

24 (2) Originally obtained the hemp extract
25 from a sealed container with a label indicating
26 the hemp extract's place of origin and a number
27 that corresponds with a certificate of analysis;

28 (3) Possesses, in close proximity to the
29 hemp extract, a certificate of analysis that:

30 (a) Has a number that corresponds with the
31 number on the label described in subdivision (2)
of this subsection;

32 (b) Indicates the hemp extract's
33 ingredients including its percentages of
34 tetrahydrocannabinol and cannabidiol by weight;
35 (c) Is created by a laboratory that is not
36 affiliated with the producer of the hemp extract
37 and is licensed in the state where the hemp
38 extract was produced; and
39 (d) Is transmitted by the laboratory to
40 the department of health and senior services; and
41 (4) Has a current hemp extract
42 registration card issued by the department of
43 health and senior services under section 192.945.
44 3. Notwithstanding any other provision of
45 this chapter, an individual who possesses hemp
46 extract lawfully under subsection 2 of this
47 section and administers hemp extract to a minor
48 suffering from intractable epilepsy is not
49 subject to the penalties described in this
50 chapter for administering the hemp extract to
51 the minor if:
52 (1) The individual is the minor's parent
53 or legal guardian; and
54 (2) The individual is registered with the
55 department of health and senior services as the
56 minor's parent under section 192.945.
57 4. An individual who has been issued a
58 valid hemp extract registration card under
59 section 192.945, or is a minor under a
60 registrant's care, may possess up to twenty
61 ounces of hemp extract pursuant to this
62 section. Subject to any rules or regulations
63 promulgated by the department of health and
64 senior services, an individual may apply for a
65 waiver if a physician provides a substantial
66 medical basis in a signed, written statement
67 asserting that, based on the patient's medical
68 history, in the physician's professional
69 judgment, twenty ounces is an insufficient
70 amount to properly alleviate the patient's
71 medical condition or symptoms associated with
72 such medical condition.]

2 [261.265. 1. For purposes of this
3 section, the following terms shall mean:
4 (1) "Cannabidiol oil care center", the
5 premises specified in an application for a
6 cultivation and production facility license in
7 which the licensee is authorized to distribute
8 processed hemp extract to persons possessing a
9 hemp extract registration card issued under
10 section 192.945;
11 (2) "Cultivation and production facility",
12 the land and premises specified in an
13 application for a cultivation and production
14 facility license on which the licensee is
15 authorized to grow, cultivate, process, and
possess hemp and hemp extract;

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

21 (4) "Department", the department of
22 agriculture;

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

28 (6) "Hemp":

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

34 a. Three-tenths of one percent on a dry
35 weight basis; or

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

39 (b) Any cannabis sativa seed that is:

40 a. Part of a growing crop;

41 b. Retained by a grower for future
42 planting; or

43 c. For processing into or use as
44 agricultural hemp seed.

45 This term shall not include industrial hemp
46 commodities or products;

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

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

67 3. A grower may produce and manufacture
68 hemp and hemp extract, and distribute hemp
69 extract as defined in section 195.207 for the
70 treatment of persons suffering from intractable
71 epilepsy as defined in section 192.945
72 consistent with any and all state or federal

73 regulations regarding the production,
74 manufacture, or distribution of such product.
75 The department shall not issue more than two
76 cultivation and production facility licenses for
77 the operation of such facilities at any one time.

78 4. The department shall maintain a list of
79 growers.

80 5. All growers shall keep records in
81 accordance with rules adopted by the
82 department. Upon at least three days' notice,
83 the director of the department may audit the
84 required records during normal business hours.
85 The director may conduct an audit for the
86 purpose of ensuring compliance with this section.

87 6. In addition to an audit conducted in
88 accordance with subsection 5 of this section,
89 the director may inspect independently, or in
90 cooperation with the state highway patrol or a
91 local law enforcement agency, any hemp crop
92 during the crop's growth phase and take a
93 representative composite sample for field
94 analysis. If a crop contains an average
95 tetrahydrocannabinol (THC) concentration
96 exceeding the lesser of:

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

99 (2) The percent based on a dry weight
100 basis determined by the federal Controlled
101 Substances Act under 21 U.S.C. Section 801, et
102 seq.,
103 the director may detain, seize, or embargo the
104 crop.

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

107 (1) Application requirements for
108 licensing, including requirements for the
109 submission of fingerprints and the completion of
110 a criminal background check;

111 (2) Security requirements for cultivation
112 and production facility premises, including, at
113 a minimum, lighting, physical security, video
114 and alarm requirements;

115 (3) Rules relating to hemp monitoring
116 systems as defined in this section;

117 (4) Other procedures for internal control
118 as deemed necessary by the department to
119 properly administer and enforce the provisions
120 of this section, including reporting
121 requirements for changes, alterations, or
122 modifications of the premises;

123 (5) Requirements that any hemp extract
124 received from a legal source be submitted to a
125 testing facility designated by the department to
126 ensure that such hemp extract complies with the
127 provisions of section 195.207 and to ensure that
128 the hemp extract does not contain any
129 pesticides. Any hemp extract that is not

130 submitted for testing or which after testing is
131 found not to comply with the provisions of
132 section 195.207 shall not be distributed or used
133 and shall be submitted to the department for
134 destruction; and

135 (6) Rules regarding the manufacture,
136 storage, and transportation of hemp and hemp
137 extract, which shall be in addition to any other
138 state or federal regulations.

139 8. Any rule or portion of a rule, as that
140 term is defined in section 536.010, that is
141 created under the authority delegated in this
142 section shall become effective only if it
143 complies with and is subject to all of the
144 provisions of chapter 536 and, if applicable,
145 section 536.028. This section and chapter 536
146 are nonseverable, and if any of the powers
147 vested with the general assembly under chapter
148 536 to review, to delay the effective date, or
149 to disapprove and annul a rule are subsequently
150 held unconstitutional, then the grant of
151 rulemaking authority and any rule proposed or
152 adopted after July 14, 2014.

153 9. All hemp waste from the production of
154 hemp extract shall either be destroyed, recycled
155 by the licensee at the hemp cultivation and
156 production facility, or donated to the
157 department or an institution of higher education
158 for research purposes, and shall not be used for
159 commercial purposes.

160 10. In addition to any other liability or
161 penalty provided by law, the director may revoke
162 or refuse to issue or renew a cultivation and
163 production facility license and may impose a
164 civil penalty on a grower for any violation of
165 this section, or section 192.945 or 195.207.
166 The director may not impose a civil penalty
167 under this section that exceeds two thousand
168 five hundred dollars.]

✓