

SENATE SUBSTITUTE
FOR
SENATE BILL NO. 904
AN ACT

To repeal section 195.010, RSMo, and to enact in lieu thereof four new sections relating to cannabis, with penalty provisions and an emergency clause for a certain section.

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

Section A. Section 195.010, RSMo, is repealed and four
2 new sections enacted in lieu thereof, to be known as sections
3 195.010, 195.800, 195.819, and 195.900, to read as follows:

195.010. The following words and phrases as used in
2 this chapter and chapter 579, unless the context otherwise
3 requires, mean:

4 (1) "Acute pain", pain, whether resulting from
5 disease, accidental or intentional trauma, or other causes,
6 that the practitioner reasonably expects to last only a
7 short period of time. Acute pain shall not include chronic
8 pain, pain being treated as part of cancer care, hospice or
9 other end-of-life care, or medication-assisted treatment for
10 substance use disorders;

11 (2) "Addict", a person who habitually uses one or more
12 controlled substances to such an extent as to create a
13 tolerance for such drugs, and who does not have a medical
14 need for such drugs, or who is so far addicted to the use of
15 such drugs as to have lost the power of self-control with
16 reference to his or her addiction;

17 (3) "Administer", to apply a controlled substance,
18 whether by injection, inhalation, ingestion, or any other
19 means, directly to the body of a patient or research subject
20 by:

21 (a) A practitioner (or, in his or her presence, by his
22 or her authorized agent); or

23 (b) The patient or research subject at the direction
24 and in the presence of the practitioner;

25 (4) "Agent", an authorized person who acts on behalf
26 of or at the direction of a manufacturer, distributor, or
27 dispenser. The term does not include a common or contract
28 carrier, public warehouseman, or employee of the carrier or
29 warehouseman while acting in the usual and lawful course of
30 the carrier's or warehouseman's business;

31 (5) "Attorney for the state", any prosecuting
32 attorney, circuit attorney, or attorney general authorized
33 to investigate, commence and prosecute an action under this
34 chapter;

35 (6) "Controlled substance", a drug, substance, or
36 immediate precursor in Schedules I through V listed in this
37 chapter;

38 (7) "Controlled substance analogue", a substance the
39 chemical structure of which is substantially similar to the
40 chemical structure of a controlled substance in Schedule I
41 or II and:

42 (a) Which has a stimulant, depressant, or
43 hallucinogenic effect on the central nervous system
44 substantially similar to the stimulant, depressant, or
45 hallucinogenic effect on the central nervous system of a
46 controlled substance included in Schedule I or II; or

47 (b) With respect to a particular individual, which
48 that individual represents or intends to have a stimulant,
49 depressant, or hallucinogenic effect on the central nervous
50 system substantially similar to the stimulant, depressant,
51 or hallucinogenic effect on the central nervous system of a
52 controlled substance included in Schedule I or II. The term
53 does not include a controlled substance; any substance for

54 which there is an approved new drug application; any
55 substance for which an exemption is in effect for
56 investigational use, for a particular person, under Section
57 505 of the federal Food, Drug and Cosmetic Act (21 U.S.C.
58 Section 355) to the extent conduct with respect to the
59 substance is pursuant to the exemption; or any substance to
60 the extent not intended for human consumption before such an
61 exemption takes effect with respect to the substance;

62 (8) "Counterfeit substance", a controlled substance
63 which, or the container or labeling of which, without
64 authorization, bears the trademark, trade name, or other
65 identifying mark, imprint, number or device, or any likeness
66 thereof, of a manufacturer, distributor, or dispenser other
67 than the person who in fact manufactured, distributed, or
68 dispensed the substance;

69 (9) "Deliver" or "delivery", the actual, constructive,
70 or attempted transfer from one person to another of drug
71 paraphernalia or of a controlled substance, or an imitation
72 controlled substance, whether or not there is an agency
73 relationship, and includes a sale;

74 (10) "Dentist", a person authorized by law to practice
75 dentistry in this state;

76 (11) "Depressant or stimulant substance":

77 (a) A drug containing any quantity of barbituric acid
78 or any of the salts of barbituric acid or any derivative of
79 barbituric acid which has been designated by the United
80 States Secretary of Health and Human Services as habit
81 forming under 21 U.S.C. Section 352(d);

82 (b) A drug containing any quantity of:

83 a. Amphetamine or any of its isomers;

84 b. Any salt of amphetamine or any salt of an isomer of
85 amphetamine; or

86 c. Any substance the United States Attorney General,
87 after investigation, has found to be, and by regulation
88 designated as, habit forming because of its stimulant effect
89 on the central nervous system;

90 (c) Lysergic acid diethylamide; or

91 (d) Any drug containing any quantity of a substance
92 that the United States Attorney General, after
93 investigation, has found to have, and by regulation
94 designated as having, a potential for abuse because of its
95 depressant or stimulant effect on the central nervous system
96 or its hallucinogenic effect;

97 (12) "Dispense", to deliver a narcotic or controlled
98 dangerous drug to an ultimate user or research subject by or
99 pursuant to the lawful order of a practitioner including the
100 prescribing, administering, packaging, labeling, or
101 compounding necessary to prepare the substance for such
102 delivery. "Dispenser" means a practitioner who dispenses;

103 (13) "Distribute", to deliver other than by
104 administering or dispensing a controlled substance;

105 (14) "Distributor", a person who distributes;

106 (15) "Drug":

107 (a) Substances recognized as drugs in the official
108 United States Pharmacopoeia, Official Homeopathic
109 Pharmacopoeia of the United States, or Official National
110 Formulary, or any supplement to any of them;

111 (b) Substances intended for use in the diagnosis,
112 cure, mitigation, treatment or prevention of disease in
113 humans or animals;

114 (c) Substances, other than food, intended to affect
115 the structure or any function of the body of humans or
116 animals; and

117 (d) Substances intended for use as a component of any
118 article specified in this subdivision. It does not include
119 devices or their components, parts or accessories;

120 (16) "Drug-dependent person", a person who is using a
121 controlled substance and who is in a state of psychic or
122 physical dependence, or both, arising from the use of such
123 substance on a continuous basis. Drug dependence is
124 characterized by behavioral and other responses which
125 include a strong compulsion to take the substance on a
126 continuous basis in order to experience its psychic effects
127 or to avoid the discomfort caused by its absence;

128 (17) "Drug enforcement agency", the Drug Enforcement
129 Administration in the United States Department of Justice,
130 or its successor agency;

131 (18) "Drug paraphernalia", all equipment, products,
132 substances and materials of any kind which are used,
133 intended for use, or designed for use, in planting,
134 propagating, cultivating, growing, harvesting,
135 manufacturing, compounding, converting, producing,
136 processing, preparing, storing, containing, concealing,
137 injecting, ingesting, inhaling, or otherwise introducing
138 into the human body a controlled substance or an imitation
139 controlled substance in violation of this chapter or chapter
140 579. It includes, but is not limited to:

141 (a) Kits used, intended for use, or designed for use
142 in planting, propagating, cultivating, growing or harvesting
143 of any species of plant which is a controlled substance or
144 from which a controlled substance can be derived;

145 (b) Kits used, intended for use, or designed for use
146 in manufacturing, compounding, converting, producing,
147 processing, or preparing controlled substances or imitation
148 controlled substances;

149 (c) Isomerization devices used, intended for use, or
150 designed for use in increasing the potency of any species of
151 plant which is a controlled substance or an imitation
152 controlled substance;

153 (d) Testing equipment used, intended for use, or
154 designed for use in identifying, or in analyzing the
155 strength, effectiveness or purity of controlled substances
156 or imitation controlled substances;

157 (e) Scales and balances used, intended for use, or
158 designed for use in weighing or measuring controlled
159 substances or imitation controlled substances;

160 (f) Dilutents and adulterants, such as quinine
161 hydrochloride, mannitol, mannite, dextrose and lactose,
162 used, intended for use, or designed for use in cutting
163 controlled substances or imitation controlled substances;

164 (g) Separation gins and sifters used, intended for
165 use, or designed for use in removing twigs and seeds from,
166 or in otherwise cleaning or refining, marijuana;

167 (h) Blenders, bowls, containers, spoons and mixing
168 devices used, intended for use, or designed for use in
169 compounding controlled substances or imitation controlled
170 substances;

171 (i) Capsules, balloons, envelopes and other containers
172 used, intended for use, or designed for use in packaging
173 small quantities of controlled substances or imitation
174 controlled substances;

175 (j) Containers and other objects used, intended for
176 use, or designed for use in storing or concealing controlled
177 substances or imitation controlled substances;

178 (k) Hypodermic syringes, needles and other objects
179 used, intended for use, or designed for use in parenterally
180 injecting controlled substances or imitation controlled
181 substances into the human body;

182 (l) Objects used, intended for use, or designed for
183 use in ingesting, inhaling, or otherwise introducing
184 marijuana, cocaine, hashish, or hashish oil into the human
185 body, such as:
186 a. Metal, wooden, acrylic, glass, stone, plastic, or
187 ceramic pipes with or without screens, permanent screens,
188 hashish heads, or punctured metal bowls;
189 b. Water pipes;
190 c. Carburetion tubes and devices;
191 d. Smoking and carburetion masks;
192 e. Roach clips meaning objects used to hold burning
193 material, such as a marijuana cigarette, that has become too
194 small or too short to be held in the hand;
195 f. Miniature cocaine spoons and cocaine vials;
196 g. Chamber pipes;
197 h. Carburetor pipes;
198 i. Electric pipes;
199 j. Air-driven pipes;
200 k. Chillums;
201 l. Bongs;
202 m. Ice pipes or chillers;
203 (m) Substances used, intended for use, or designed for
204 use in the manufacture of a controlled substance.

205 In determining whether an object, product, substance or
206 material is drug paraphernalia, a court or other authority
207 should consider, in addition to all other logically relevant
208 factors, the following:

209 a. Statements by an owner or by anyone in control of
210 the object concerning its use;
211 b. Prior convictions, if any, of an owner, or of
212 anyone in control of the object, under any state or federal

213 law relating to any controlled substance or imitation
214 controlled substance;

215 c. The proximity of the object, in time and space, to
216 a direct violation of this chapter or chapter 579;

217 d. The proximity of the object to controlled
218 substances or imitation controlled substances;

219 e. The existence of any residue of controlled
220 substances or imitation controlled substances on the object;

221 f. Direct or circumstantial evidence of the intent of
222 an owner, or of anyone in control of the object, to deliver
223 it to persons who he or she knows, or should reasonably
224 know, intend to use the object to facilitate a violation of
225 this chapter or chapter 579; the innocence of an owner, or
226 of anyone in control of the object, as to direct violation
227 of this chapter or chapter 579 shall not prevent a finding
228 that the object is intended for use, or designed for use as
229 drug paraphernalia;

230 g. Instructions, oral or written, provided with the
231 object concerning its use;

232 h. Descriptive materials accompanying the object which
233 explain or depict its use;

234 i. National or local advertising concerning its use;

235 j. The manner in which the object is displayed for
236 sale;

237 k. Whether the owner, or anyone in control of the
238 object, is a legitimate supplier of like or related items to
239 the community, such as a licensed distributor or dealer of
240 tobacco products;

241 l. Direct or circumstantial evidence of the ratio of
242 sales of the object to the total sales of the business
243 enterprise;

244 m. The existence and scope of legitimate uses for the
245 object in the community;

246 n. Expert testimony concerning its use;
247 o. The quantity, form or packaging of the product,
248 substance or material in relation to the quantity, form or
249 packaging associated with any legitimate use for the
250 product, substance or material;

251 (19) "Federal narcotic laws", the laws of the United
252 States relating to controlled substances;

253 (20) "Hemp", the same meaning as in section 195.900;

254 (21) "Hospital", a place devoted primarily to the
255 maintenance and operation of facilities for the diagnosis,
256 treatment or care, for not less than twenty-four hours in
257 any week, of three or more nonrelated individuals suffering
258 from illness, disease, injury, deformity or other abnormal
259 physical conditions; or a place devoted primarily to
260 provide, for not less than twenty-four consecutive hours in
261 any week, medical or nursing care for three or more
262 nonrelated individuals. The term hospital does not include
263 convalescent, nursing, shelter or boarding homes as defined
264 in chapter 198;

265 [(21) "Illegal industrial hemp":

266 (a) All nonseed parts and varieties of the *Cannabis*
267 *sativa* L. plant, growing or not, that contain an average
268 delta-9 tetrahydrocannabinol (THC) concentration exceeding
269 three-tenths of one percent on a dry weight basis;

270 (b) Illegal industrial hemp shall be destroyed in the
271 most effective manner possible, and such destruction shall
272 be verified by the Missouri state highway patrol;]

273 (22) "Immediate precursor", a substance which:

274 (a) The state department of health and senior services
275 has found to be and by rule designates as being the
276 principal compound commonly used or produced primarily for
277 use in the manufacture of a controlled substance;

278 (b) Is an immediate chemical intermediary used or
279 likely to be used in the manufacture of a controlled
280 substance; and

281 (c) The control of which is necessary to prevent,
282 curtail or limit the manufacture of the controlled substance;

283 (23) "Imitation controlled substance", a substance
284 that is not a controlled substance, which by dosage unit
285 appearance (including color, shape, size and markings), or
286 by representations made, would lead a reasonable person to
287 believe that the substance is a controlled substance. In
288 determining whether the substance is an imitation controlled
289 substance the court or authority concerned should consider,
290 in addition to all other logically relevant factors, the
291 following:

292 (a) Whether the substance was approved by the federal
293 Food and Drug Administration for over-the-counter
294 (nonprescription or nonlegend) sales and was sold in the
295 federal Food and Drug Administration-approved package, with
296 the federal Food and Drug Administration-approved labeling
297 information;

298 (b) Statements made by an owner or by anyone else in
299 control of the substance concerning the nature of the
300 substance, or its use or effect;

301 (c) Whether the substance is packaged in a manner
302 normally used for illicit controlled substances;

303 (d) Prior convictions, if any, of an owner, or anyone
304 in control of the object, under state or federal law related
305 to controlled substances or fraud;

306 (e) The proximity of the substances to controlled
307 substances;

308 (f) Whether the consideration tendered in exchange for
309 the noncontrolled substance substantially exceeds the
310 reasonable value of the substance considering the actual

311 chemical composition of the substance and, where applicable,
312 the price at which over-the-counter substances of like
313 chemical composition sell. An imitation controlled
314 substance does not include a placebo or registered
315 investigational drug either of which was manufactured,
316 distributed, possessed or delivered in the ordinary course
317 of professional practice or research;

318 (24) "Industrial hemp"[:

319 (a) All nonseed parts and varieties of the *Cannabis*
320 *sativa L.* plant, growing or not, that contain an average
321 delta-9 tetrahydrocannabinol (THC) concentration that does
322 not exceed three-tenths of one percent on a dry weight basis
323 or the maximum concentration allowed under federal law,
324 whichever is greater;

325 (b) Any *Cannabis sativa L.* seed that is part of a
326 growing crop, retained by a grower for future planting, or
327 used for processing into or use as agricultural hemp seed;

328 (c) Industrial hemp includes industrial hemp
329 commodities and products and topical or ingestible animal
330 and consumer products derived from industrial hemp with a
331 delta-9 tetrahydrocannabinol concentration of not more than
332 three-tenths of one percent on a dry weight basis], the same
333 meaning as in section 195.900;

334 (25) "Initial prescription", a prescription issued to
335 a patient who has never previously been issued a
336 prescription for the drug or its pharmaceutical equivalent
337 or who was previously issued a prescription for the drug or
338 its pharmaceutical equivalent, but the date on which the
339 current prescription is being issued is more than five
340 months after the date the patient last used or was
341 administered the drug or its equivalent;

342 (26) "Laboratory", a laboratory approved by the
343 department of health and senior services as proper to be

344 entrusted with the custody of controlled substances but does
345 not include a pharmacist who compounds controlled substances
346 to be sold or dispensed on prescriptions;

347 (27) "Manufacture", the production, preparation,
348 propagation, compounding or processing of drug paraphernalia
349 or of a controlled substance, or an imitation controlled
350 substance, either directly or by extraction from substances
351 of natural origin, or independently by means of chemical
352 synthesis, or by a combination of extraction and chemical
353 synthesis, and includes any packaging or repackaging of the
354 substance or labeling or relabeling of its container. This
355 term does not include the preparation or compounding of a
356 controlled substance or an imitation controlled substance or
357 the preparation, compounding, packaging or labeling of a
358 narcotic or dangerous drug:

359 (a) By a practitioner as an incident to his or her
360 administering or dispensing of a controlled substance or an
361 imitation controlled substance in the course of his or her
362 professional practice; or

363 (b) By a practitioner or his or her authorized agent
364 under his or her supervision, for the purpose of, or as an
365 incident to, research, teaching or chemical analysis and not
366 for sale;

367 (28) "Marijuana", all parts of the plant genus
368 *Cannabis* in any species or form thereof, including, but not
369 limited to *Cannabis Sativa L.*, except industrial hemp,
370 *Cannabis Indica*, *Cannabis Americana*, *Cannabis Ruderalis*, and
371 *Cannabis Gigantea*, whether growing or not, the seeds
372 thereof, the resin extracted from any part of the plant; and
373 every compound, manufacture, salt, derivative, mixture, or
374 preparation of the plant, its seeds or resin. It does not
375 include the mature stalks of the plant, fiber produced from
376 the stalks, oil or cake made from the seeds of the plant,

377 any other compound, manufacture, salt, derivative, mixture
378 or preparation of the mature stalks (except the resin
379 extracted therefrom), fiber, oil or cake, or the sterilized
380 seed of the plant which is incapable of germination;

381 (29) "Methamphetamine precursor drug", any drug
382 containing ephedrine, pseudoephedrine, phenylpropanolamine,
383 or any of their salts, optical isomers, or salts of optical
384 isomers;

385 (30) "Narcotic drug", any of the following, whether
386 produced directly or indirectly by extraction from
387 substances of vegetable origin, or independently by means of
388 chemical synthesis, or by a combination of extraction and
389 chemical analysis:

390 (a) Opium, opiate, and any derivative, of opium or
391 opiate, including their isomers, esters, ethers, salts, and
392 salts of isomers, esters, and ethers, whenever the existence
393 of the isomers, esters, ethers, and salts is possible within
394 the specific chemical designation. The term does not
395 include the isoquinoline alkaloids of opium;

396 (b) Coca leaves, but not including extracts of coca
397 leaves from which cocaine, ecgonine, and derivatives of
398 ecgonine or their salts have been removed;

399 (c) Cocaine or any salt, isomer, or salt of isomer
400 thereof;

401 (d) Ecgonine, or any derivative, salt, isomer, or salt
402 of isomer thereof;

403 (e) Any compound, mixture, or preparation containing
404 any quantity of any substance referred to in paragraphs (a)
405 to (d) of this subdivision;

406 (31) "Official written order", an order written on a
407 form provided for that purpose by the United States
408 Commissioner of Narcotics, under any laws of the United
409 States making provision therefor, if such order forms are

410 authorized and required by federal law, and if no such order
411 form is provided, then on an official form provided for that
412 purpose by the department of health and senior services;

413 (32) "Opiate" or "opioid", any substance having an
414 addiction-forming or addiction-sustaining liability similar
415 to morphine or being capable of conversion into a drug
416 having addiction-forming or addiction-sustaining liability.
417 The term includes its racemic and levorotatory forms. It
418 does not include, unless specifically controlled under
419 section 195.017, the dextrorotatory isomer of 3-methoxy-n-
420 methyl-morphinan and its salts (dextromethorphan);

421 (33) "Opium poppy", the plant of the species *Papaver*
422 *somniferum L.*, except its seeds;

423 (34) "Over-the-counter sale", a retail sale licensed
424 pursuant to chapter 144 of a drug other than a controlled
425 substance;

426 (35) "Person", an individual, corporation, government
427 or governmental subdivision or agency, business trust,
428 estate, trust, partnership, joint venture, association, or
429 any other legal or commercial entity;

430 (36) "Pharmacist", a licensed pharmacist as defined by
431 the laws of this state, and where the context so requires,
432 the owner of a store or other place of business where
433 controlled substances are compounded or dispensed by a
434 licensed pharmacist; but nothing in this chapter shall be
435 construed as conferring on a person who is not registered
436 nor licensed as a pharmacist any authority, right or
437 privilege that is not granted to him by the pharmacy laws of
438 this state;

439 (37) "Poppy straw", all parts, except the seeds, of
440 the opium poppy, after mowing;

441 (38) "Possessed" or "possessing a controlled
442 substance", a person, with the knowledge of the presence and

443 nature of a substance, has actual or constructive possession
444 of the substance. A person has actual possession if he has
445 the substance on his or her person or within easy reach and
446 convenient control. A person who, although not in actual
447 possession, has the power and the intention at a given time
448 to exercise dominion or control over the substance either
449 directly or through another person or persons is in
450 constructive possession of it. Possession may also be sole
451 or joint. If one person alone has possession of a substance
452 possession is sole. If two or more persons share possession
453 of a substance, possession is joint;

454 (39) "Practitioner", a physician, dentist,
455 optometrist, podiatrist, veterinarian, scientific
456 investigator, pharmacy, hospital or other person licensed,
457 registered or otherwise permitted by this state to
458 distribute, dispense, conduct research with respect to or
459 administer or to use in teaching or chemical analysis, a
460 controlled substance in the course of professional practice
461 or research in this state, or a pharmacy, hospital or other
462 institution licensed, registered, or otherwise permitted to
463 distribute, dispense, conduct research with respect to or
464 administer a controlled substance in the course of
465 professional practice or research;

466 (40) "Production", includes the manufacture, planting,
467 cultivation, growing, or harvesting of drug paraphernalia or
468 of a controlled substance or an imitation controlled
469 substance;

470 (41) "Registry number", the number assigned to each
471 person registered under the federal controlled substances
472 laws;

473 (42) "Sale", includes barter, exchange, or gift, or
474 offer therefor, and each such transaction made by any

475 person, whether as principal, proprietor, agent, servant or
476 employee;

477 (43) "State" when applied to a part of the United
478 States, includes any state, district, commonwealth,
479 territory, insular possession thereof, and any area subject
480 to the legal authority of the United States of America;

481 (44) "Synthetic cannabinoid", includes unless
482 specifically excepted or unless listed in another schedule,
483 any natural or synthetic material, compound, mixture, or
484 preparation that contains any quantity of a substance that
485 is a cannabinoid receptor agonist, including but not limited
486 to any substance listed in paragraph (11) of subdivision (4)
487 of subsection 2 of section 195.017 and any analogues;
488 homologues; isomers, whether optical, positional, or
489 geometric; esters; ethers; salts; and salts of isomers,
490 esters, and ethers, whenever the existence of the isomers,
491 esters, ethers, or salts is possible within the specific
492 chemical designation, however, it shall not include any
493 approved pharmaceutical authorized by the United States Food
494 and Drug Administration;

495 (45) "Ultimate user", a person who lawfully possesses
496 a controlled substance or an imitation controlled substance
497 for his or her own use or for the use of a member of his or
498 her household or immediate family, regardless of whether
499 they live in the same household, or for administering to an
500 animal owned by him or by a member of his or her household.
501 For purposes of this section, the phrase "immediate family"
502 means a husband, wife, parent, child, sibling, stepparent,
503 stepchild, stepbrother, stepsister, grandparent, or
504 grandchild;

505 (46) "Wholesaler", a person who supplies drug
506 paraphernalia or controlled substances or imitation
507 controlled substances that he himself has not produced or

508 prepared, on official written orders, but not on
509 prescriptions.

195.800. 1. Notwithstanding any other provision of
2 law to the contrary, no state agency, including employees
3 therein, shall disclose to the federal government, any
4 federal government employee, or any unauthorized third party
5 the statewide list or any individual information of persons
6 who have applied for or obtained a qualifying patient
7 identification card, a qualifying patient cultivation
8 identification card, or a primary caregiver identification
9 card, as those cards are described in Article XIV, Section 1
10 of the Constitution of Missouri relating to the right to
11 access medical marijuana, unless required to do so pursuant
12 to a subpoena or court order issued by a court of competent
13 jurisdiction.

14 2. Any person who knowingly violates the provisions of
15 this section shall be guilty of a class E felony.

195.819. Upon the written request of a consumer,
2 marijuana dispensary facilities, as described in Article XIV
3 of the Constitution of Missouri, shall not create or retain
4 any record containing the consumer's identifying
5 information. The provisions of this section shall not apply
6 to any record-keeping requirements relating to qualifying
7 patients and primary caregivers under Article XIV, Section 1
8 of the Constitution of Missouri. Any dispensary facility
9 that violates the provisions of this section shall be
10 assessed a fine of two thousand five hundred dollars per
11 occurrence.

195.900. 1. This section shall be known and may be
2 cited as the "Intoxicating Cannabinoid Control Act".

3 2. As used in this section, the following terms mean:

4 (1) "Container", the innermost wrapping, packaging, or
5 vessel in direct contact with a final hemp-derived

6 cannabinoid product in which the final hemp-derived
7 cannabinoid product is enclosed for retail sale to
8 consumers, including, but not limited to, a jar, bottle,
9 bag, box, packet, can, carton, or cartridge. "Container"
10 shall not include bulk shipping containers or outer
11 wrappings that are not essential for the final retail
12 delivery or sale to an end-user consumer for personal or
13 household use;

14 (2) "Department", the department of health and senior
15 services;

16 (3) "Hemp", the plant *Cannabis sativa L.* and any part
17 of that plant, including the seeds thereof, and all
18 derivatives, extracts, cannabinoids, isomers, acids, salts,
19 and salts of isomers, whether growing or not, with a total
20 tetrahydrocannabinols concentration, including
21 tetrahydrocannabinolic acid, of not more than three-tenths
22 of one percent on a dry weight basis. "Hemp" shall include
23 industrial hemp, but shall not include the following:

24 (a) Any viable seed from a *Cannabis sativa L.* plant
25 that exceeds a total tetrahydrocannabinol concentration,
26 including tetrahydrocannabinolic acid, of three-tenths of
27 one percent on a dry weight basis;

28 (b) Any intermediate hemp-derived cannabinoid products
29 containing:

30 a. Cannabinoids that are capable of being naturally
31 produced by a *Cannabis sativa L.* plant and were synthesized
32 or manufactured outside the plant; or

33 b. More than three-tenths of one percent on a dry
34 weight basis of a combined total of tetrahydrocannabinols,
35 including tetrahydrocannabinolic acid, and any other
36 cannabinoids that have similar effects or are marketed as
37 having similar effects on humans or animals as a

38 tetrahydrocannabinol, as determined by the U.S. Secretary of
39 Health and Human Services;

40 (c) Any intermediate hemp-derived cannabinoid products
41 marketed or sold as a final product or directly to an end
42 consumer for personal or household use; or

43 (d) Any final hemp-derived cannabinoid products
44 containing:

45 a. Cannabinoids that are not capable of being produced
46 by a *Cannabis sativa L.* plant;

47 b. Cannabinoids that are capable of being naturally
48 produced by a *Cannabis sativa L.* plant and that were
49 synthesized or manufactured outside the plant; or

50 c. Greater than four tenths of one milligram combined
51 total per container of tetrahydrocannabinols, including
52 tetrahydrocannabinolic acid, and any other cannabinoids that
53 have similar effects or are marketed as having similar
54 effects on humans or animals as a tetrahydrocannabinol, as
55 determined by the U.S. Secretary of Health and Human
56 Services;

57 (4) "Hemp-derived cannabinoid product", any
58 intermediate or final product derived from hemp, other than
59 industrial hemp, that contains cannabinoids in any form and
60 is intended for human or animal use through any means of
61 application or administration, including, but not limited
62 to, inhalation, ingestion, or topical application. "Hemp-
63 derived cannabinoid product" shall not include a drug that
64 is the subject of an application approved under subsection
65 (c) or (j) of Section 505 of the Federal Food, Drug, and
66 Cosmetic Act, 21 U.S.C. Section 355, as amended;

67 (5) "Industrial hemp", hemp that is:

68 (a) Grown for the use of the stalk of the plant, fiber
69 produced from such a stalk, or any other noncannabinoid

70 compound, derivative, mixture, preparation, or manufacture
71 of such a stalk;

72 (b) Grown for the use of the whole grain, oil, cake,
73 nut, hull, or any other noncannabinoid compound, derivative,
74 mixture, preparation, or manufacture of the seeds of such
75 plant;

76 (c) Grown for the purpose of producing microgreens or
77 other edible hemp leaf products intended for human
78 consumption that are derived from an immature hemp plant
79 that is grown from seeds that do not exceed the threshold
80 for total tetrahydrocannabinol concentration under paragraph
81 (a) of subdivision (3) of this subsection;

82 (d) A plant that does not enter the stream of commerce
83 and is intended to support hemp research at an institution
84 of higher education, as defined in Section 101 of the Higher
85 Education Act of 1965, 20 U.S.C. Section 1001, as amended,
86 or an independent research institute; or

87 (e) Grown for the use of a viable seed of the plant
88 produced solely for the production or manufacture of any
89 material described in paragraphs (a) to (d) of this
90 subdivision;

91 (6) "Intermediate hemp-derived cannabinoid product", a
92 hemp-derived cannabinoid product that is:

93 (a) Not yet in the final form or preparation marketed
94 or intended to be used or consumed by a human or animal; or

95 (b) A powder, liquid, tablet, oil, or other product
96 form that is intended or marketed to be mixed, dissolved,
97 formulated, or otherwise added to or prepared with or into
98 any other substance prior to administration or consumption;

99 (7) "Intoxicating hemp-derived products", any of the
100 following:

101 (a) The plant *Cannabis sativa L.* and any part of that
102 plant, including the seeds thereof, and all derivatives,

103 extracts, cannabinoids, isomers, acids, salts, and salts of
104 isomers, whether growing or not, with a total
105 tetrahydrocannabinols concentration, including
106 tetrahydrocannabinolic acid, of more than three-tenths of
107 one percent on a dry weight basis;

108 (b) Any viable seed from a *Cannabis sativa L.* plant
109 that exceeds a total tetrahydrocannabinol concentration,
110 including tetrahydrocannabinolic acid, of three-tenths of
111 one percent on a dry weight basis;

112 (c) Any intermediate hemp-derived cannabinoid products
113 containing:

114 a. Cannabinoids that are capable of being naturally
115 produced by a *Cannabis sativa L.* plant and were synthesized
116 or manufactured outside the plant; or

117 b. More than three-tenths of one percent on a dry
118 weight basis of a combined total of tetrahydrocannabinols,
119 including tetrahydrocannabinolic acid, and any other
120 cannabinoids that have similar effects or are marketed as
121 having similar effects on humans or animals as a
122 tetrahydrocannabinol, as determined by the U.S. Secretary of
123 Health and Human Services;

124 (d) Any intermediate hemp-derived cannabinoid products
125 marketed or sold as a final product or directly to an end
126 consumer for personal or household use; or

127 (e) Any final hemp-derived cannabinoid products
128 containing:

129 a. Cannabinoids that are not capable of being produced
130 by a *Cannabis sativa L.* plant;

131 b. Cannabinoids that are capable of being naturally
132 produced by a *Cannabis sativa L.* plant and that were
133 synthesized or manufactured outside the plant; or

134 c. Greater than four tenths of one milligram combined
135 total per container of tetrahydrocannabinols, including

136 tetrahydrocannabinolic acid, and any other cannabinoids that
137 have similar effects or are marketed as having similar
138 effects on humans or animals as a tetrahydrocannabinol, as
139 determined by the U.S. Secretary of Health and Human
140 Services;

141 (8) "Marijuana", as such term is defined in Article
142 XIV of the Constitution of Missouri and shall not be
143 construed to conform to or be included in the definition of
144 "hemp" in this section;

145 (9) "Transaction", the sale of a single unit of a hemp-
146 derived cannabinoid product, including a single unit in a
147 multiunit package.

148 3. The cultivation, production, manufacturing,
149 testing, transportation, and retail sale within this state
150 of all intoxicating hemp-derived products shall be conducted
151 solely by entities licensed by the department under Article
152 XIV of the Constitution of Missouri. Intoxicating hemp-
153 derived products shall be considered marijuana and shall be
154 subject to the legal framework contained in Article XIV of
155 the Constitution of Missouri, under which the purchase,
156 possession, consumption, use, delivery, manufacturing, and
157 sale of marijuana is regulated by the department.

158 4. The term "intoxicating hemp-derived products" shall
159 be construed to, conform to, and be included in, the
160 definition of "marijuana" under Article XIV of the
161 Constitution of Missouri, but shall not be construed to,
162 conform to, or be included in, the definition of "industrial
163 hemp" in subsection 2 of this section.

164 5. Hemp and industrial hemp shall not be considered
165 marijuana and shall not be subject to the legal framework
166 contained in Article XIV of the Constitution of Missouri or
167 in this section. Nothing in this section shall be construed
168 to regulate hemp or industrial hemp, and the provisions of

169 this section shall not be construed to conflict or otherwise
170 preempt the Agriculture Improvement Act of 2018, Pub. L. 115-
171 334, as amended.

172 6. Nothing in this section shall be construed to
173 prohibit the interstate commerce of hemp or the
174 transportation or shipment of hemp through this state.

175 7. Notwithstanding any provision of law to the
176 contrary, all intoxicating hemp-derived products are
177 marijuana and shall be subject to the jurisdiction of the
178 department and the office of the attorney general consistent
179 with Article XIV of the Constitution of Missouri and the
180 provisions of this section. The department and the office
181 of the attorney general shall be authorized to enforce the
182 provisions of this section in such a manner as to ensure
183 that no intoxicating hemp-derived products are cultivated,
184 manufactured, tested, transported, or sold within this state
185 outside of a licensed comprehensive facility, medical
186 facility, testing facility, or marijuana microbusiness
187 facility, as such terms are defined in Article XIV of the
188 Constitution of Missouri.

189 8. No person or entity engaged in the sale of products
190 that contain cannabidiol (CBD), hemp, marijuana,
191 cannabinoids, hemp-derived cannabinoid products, or
192 paraphernalia to aid in the human or animal consumption of
193 such products, other than a comprehensive marijuana
194 dispensary facility, medical marijuana dispensary facility,
195 or microbusiness dispensary facility, as such terms are
196 defined in Article XIV of the Constitution of Missouri,
197 shall carry on, conduct, or transact business under a name
198 that contains as part of the name the word "dispensary" or
199 any word of similar import.

200 9. (1) The office of the attorney general, the
201 department, the department of public safety, the division of

202 alcohol and tobacco control within the department of public
203 safety, the state highway patrol, and any other state agency
204 deemed necessary by the office of the attorney general to
205 aid in the enforcement of this section shall concurrently be
206 authorized, empowered, and mandated to enforce the
207 provisions of this section, including, but not limited to,
208 the prohibition of the cultivation, manufacturing, testing,
209 transportation, and retail sale of intoxicating hemp-derived
210 products outside of licensed comprehensive facilities,
211 medical facilities, or marijuana microbusiness facilities,
212 as such terms are defined in Article XIV of the Constitution
213 of Missouri.

214 (2) The office of the attorney general shall have
215 primary jurisdiction to enforce the provisions of this
216 section, including, but not limited to, the power to:

217 (a) Utilize a multijurisdictional enforcement
218 approach, including, but not limited to, direct coordination
219 with the department, the department of public safety, the
220 division of alcohol and tobacco control within the
221 department of public safety, the state highway patrol,
222 prosecuting and circuit attorneys, and any other state
223 agency deemed necessary by the office of the attorney
224 general;

225 (b) Collaborate and coordinate with local county and
226 municipal governments and other political subdivisions;

227 (c) Bring civil actions to collect the administrative
228 finances under subsection 10 of this section; and

229 (d) Utilize the department's reference laboratory.

230 (3) (a) Violations of the provisions of this section
231 involving intoxicating hemp-derived products, including, but
232 not limited to, false advertising or other deceptive trade
233 practices, shall also constitute violations of sections

234 407.010 to 407.130 and may be enforced civilly by the office
235 of the attorney general.

236 (b) The office of the attorney general shall be
237 authorized to investigate, subpoena, and enforce civil
238 remedies under sections 407.010 to 407.130 related to hemp-
239 derived cannabinoid products, including, but not limited to,
240 seeking restitution, civil penalties, and legal costs.

241 (c) Notwithstanding any provision of law to the
242 contrary, all moneys collected by the office of the attorney
243 general under paragraph (b) of this subdivision, including
244 civil penalties, restitution, and legal costs, shall be
245 deposited into the fund established in section 407.140 and
246 may be used by the office of the attorney general, without
247 further appropriation, to defray enforcement costs,
248 including, but not limited to, laboratory testing, field
249 inspections, investigations, and legal fees, and to offset
250 general revenue reductions associated with this section.

251 (4) (a) Notwithstanding any provision of law to the
252 contrary, any state agency involved in enforcement of this
253 section, including, but not limited to, the office of the
254 attorney general, the department, the department of public
255 safety, and the state highway patrol, shall first utilize
256 available moneys collected under sections 407.010 to 407.130
257 before expending any general revenue funds for the
258 enforcement of this section.

259 (b) The office of the attorney general may coordinate
260 with the department, the department of public safety, the
261 state highway patrol, prosecuting and circuit attorneys, and
262 any other state or local agencies deemed necessary in
263 enforcement.

264 10. In order to protect the efficiency of the
265 marijuana program established under Article XIV of the
266 Constitution of Missouri occasioned by noncompliance with

267 the law and to protect the private rights of licensees under
268 Article XIV of the Constitution of Missouri, any person or
269 entity that violates the provisions of this section shall be
270 subject to a nondiscretionary, nonpunitive, and nominal
271 administrative civil fine of five thousand dollars per
272 transaction, in addition to any and all administrative costs
273 and expenses associated with the sampling, testing, storage,
274 and destruction of product found to be in violation of the
275 provisions of this section.

276 11. In order to deter and penalize noncompliance with
277 the law, any person or entity that violates the provisions
278 of this section shall be guilty of a class D felony.

279 12. (1) There shall be created in the state treasury
280 the "ICCA Enforcement Fund", which shall consist of all
281 administrative fines authorized to be charged under
282 subsection 10 of this section. The state treasurer shall be
283 custodian of the fund. In accordance with sections 30.170
284 and 30.180, the state treasurer may approve disbursements.
285 The fund shall be a dedicated fund and, upon appropriation,
286 money in the fund shall be used solely for the purpose of
287 enforcement of this section.

288 (2) Notwithstanding the provisions of section 33.080,
289 to the contrary, any moneys remaining in the fund at the end
290 of the biennium shall not revert to the credit of the
291 general revenue fund.

292 (3) The state treasurer shall invest moneys in the
293 fund in the same manner as other funds are invested. Any
294 interest and moneys earned on such investments shall be
295 credited to the fund.

296 13. If any provision of this section, or the
297 application thereof to any person or circumstance, is held
298 invalid, such invalidity shall not affect other provisions
299 or applications of this section that can be given effect

300 without the invalid provision or application, and to this
301 end the provisions of this section are declared to be
302 severable.

Section B. Because of the immediate danger to the
2 health and safety of Missouri residents presented by the
3 rapid increase of unregulated, untested, and otherwise
4 dangerous intoxicating cannabinoid products in this state,
5 the enactment of section 195.900 of this act is deemed
6 necessary for the immediate preservation of the public
7 health, welfare, peace, and safety, and is hereby declared
8 to be an emergency act within the meaning of the
9 constitution, and the enactment of section 195.900 of this
10 act shall be in full force and effect upon its passage and
11 approval.