

28th day of August, 2018.



JOHN R. ASHCROFT
Secretary of State

PROPOSITION C

[Proposed by Initiative Petition]

OFFICIAL BALLOT TITLE:

Do you want to amend Missouri law to:

- **remove state prohibitions on personal use and possession of medical cannabis (marijuana) with a written certification by a physician who treats a patient diagnosed with a qualifying medical condition;**
- **remove state prohibitions on growth, possession, production, and sale of medical marijuana by licensed and regulated facilities, and a facility's licensed owners and employees;**
- **impose a 2% tax on the retail sale of medical marijuana; and**
- **use funds from this tax for veterans' services, drug treatment, early childhood education, and for public safety in cities with a medical marijuana facility?**

State government entities estimate initial and one-time costs of \$2.6 million, annual costs of \$10 million, and annual revenues of at least \$10 million. Local government entities estimate no annual costs and are expected to have at least \$152,000 in annual revenues.

Be it enacted by the People of the state of Missouri:

Section A. Sections 192.005, 263.250, 311.610, 311.620, 311.630 and 311.660 RSMo, are amended and thirty-three new sections are enacted to be known as sections 195.018, 195.900, 195.903, 195.906, 195.909, 195.912, 195.915, 195.918, 195.921, 195.924, 195.927, 195.930, 195.933, 195.936, 195.939, 195.942, 195.945, 195.948, 195.951, 195.954, 195.957, 195.960, 195.961, 195.963, 195.966, 195.969, 195.972, 195.975, 195.978, 195.981, 195.982, 195.984 and 195.985 to read as follows:

192.005. There is hereby created and established as a department of state government the "Department of Health and Senior Services". The department of health and senior services shall supervise and manage all public health functions and programs. The department shall be governed by the provisions of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo, unless otherwise provided in sections 192.005 to 192.014. The division of health of the department of social services, chapter 191, this chapter, and others, including, but not limited to, such agencies and functions as the state health planning and development agency, the crippled children's service", chapter 201, the bureau and the program for the prevention of developmental disability, the hospital subsidy program, chapter 189, the state board of health, section 191.400, the student loan program, sections 191.500 to 191.550, the family practice residency program, the licensure and certification of hospitals, chapter 197, the Missouri chest hospital, sections 199.010 to 199.070", are hereby transferred to the department of health and senior services by a type I transfer, and the state cancer center and cancer commission, chapter 200, is hereby transferred to the department of health and senior services by a type III transfer as such transfers are defined in section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, RSMo Supp. 1984, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section. The division of health of the department of social services is abolished. The department of health and senior services shall have the duties and powers set forth in sections 195.900 to 195.985.

195.018. The provisions of section 195.017 shall not apply to any product used as authorized by sections 195.900 to 195.985.

195.900. 1. Sections 195.900 to 195.985 shall be known and may be cited as the "Missouri Patient Care Act".

2. (1) Sections 195.900 to 195.985 shall be deemed an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state.

(2) It shall be unlawful under state law to cultivate, manufacture, distribute, test, possess, or sell medical cannabis, except in compliance with the terms, conditions, limitations, and restrictions in sections 195.900 to 195.985.

(3) This section is intended to permit state-licensed physicians to certify that a patient has a qualifying medical condition and that the physician is treating or managing treatment of the patient's qualifying medical condition in the course of a bona fide physician-patient relationship, after the physician has completed an assessment of the qualifying patient's medical history, reviewed relevant records related to the patient's qualifying medical condition, and conducted a physical examination.

(4) This section is intended to make only those changes to Missouri laws that are necessary to protect patients, their caregivers, and their physicians from civil and criminal penalties, and to allow for the limited legal production, distribution, sale, possession, and purchase of cannabis for medical use. This section is not intended to change current civil and criminal laws governing the use of cannabis

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

3. As used in sections 195.900 to 195.985, the following terms shall mean:

(1) "Adequate supply", 2.5 ounces of cannabis flower or its equivalent in cannabis concentrate or cannabis product during a period of fourteen days and that is derived solely from a licensed intrastate source. Subject to the rules of the department of health and senior services, a patient may apply for a waiver to possess more than 2.5 ounces for a fourteen-day period if a physician provides a substantial medical basis in a signed written statement asserting that, based on the patient's medical history and in the physician's professional judgment, 2.5 ounces is an insufficient adequate supply for a fourteen-day period to properly alleviate the patient's qualifying medical condition or symptoms associated with the qualifying medical condition. A qualifying patient may possess no more than a sixty-day supply of cannabis flower or its equivalent in cannabis concentrate or cannabis product.

(2) "Administer", the direct application of cannabis to a qualifying patient by way of any of the following methods:

(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;

(e) Consuming cannabis-infused food products; or

(f) Any other method recommended by a qualifying patient's physician.

(3) "Cannabis", all parts of the plant genus *Cannabis* in any species or form thereof, including, but not limited to, *Cannabis Sativa* L., *Cannabis Indica*, *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks except the resin extracted therefrom; fiber, oil, or cake; or the sterilized seed of the plant which is incapable of germination.

(4) "Cannabis plant monitoring system", an electronic seed-to-sale tracking system that includes, but is not limited to, testing and data collection established and maintained by the licensed medical cannabis cultivation and production facility and the medical cannabis center and available to the division for the purposes of documenting each cannabis plant and for monitoring plant development throughout the life cycle of a cannabis plant cultivated for the intended use by a qualifying patient from seed planting, cloning, or other method of propagation, to final packaging and sale to a qualifying patient.

(5) "Cannabis products", concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof and are intended for use or consumption. The term includes, without limitation, edible cannabis products, beverages, topical products, ointments, oils, and tinctures.

(6) "Caregiver", a natural person, other than the qualifying patient or the qualifying patient's physician, who is twenty-one years of age or older and has significant responsibility for managing the well-being of a qualifying patient and who is designated as such on the caregiver's application for an identification card under this section.

(7) "Department", the department of health and senior services.

(8) "Division", the division of alcohol and tobacco control within the department of public safety.

(9) "Entity", 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 entity.

(10) "Good cause", for purposes of refusing or denying a license renewal, reinstatement, or initial license issuance:

(a) The license applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of sections 195.900 to 195.985, any rules promulgated thereunder, or any supplemental local law, rules, or regulations;

(b) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license under an order of the state or local licensing authority; or

(c) The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

(11) "License", a license or registration under sections 195.900 to 195.985.

(12) "Licensed premises", the premises specified in an application for a license under sections 195.900 to 195.985, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, test, possess, or sell medical cannabis in accordance with the provisions of sections 195.900 to 195.985.

(13) "Licensee", a person licensed or registered under sections 195.900 to 195.985.

(14) "Limited access area", a building, room, or other contiguous area upon the licensed premises where medical cannabis is grown, cultivated, stored, weighed, displayed, packaged, sold, or possessed for sale, under control of the licensee, with limited access to

only those persons licensed by the division, and visitors and vendors as provided by rule. All areas of ingress or egress to limited access areas shall be clearly identified as such by a sign as designated by the division.

(15) "Local licensing authority", an authority designated by municipal or county charter or ordinance.

(16) "Medical cannabis", cannabis that is grown and sold under sections 195.900 to 195.985 for a purpose authorized under sections 195.900 to 195.985.

(17) "Medical cannabis center", a person licensed under sections 195.900 to 195.985 to operate a business as described in sections 195.900 to 195.985 that acquires, possesses, stores, delivers, transfer, transports, sells, supplies or dispenses cannabis, cannabis products, medical cannabis, paraphernalia or related supplies to registered qualifying patients or caregivers, or other licensed medical cannabis centers.

(18) "Medical cannabis cultivation and production facility", a person licensed under sections 195.900 to 195.985 to operate a business as described in section 195.984.

(19) "Medical cannabis-infused product", a product infused with medical cannabis that is intended for use or consumption other than by smoking, including, but not limited to, edible cannabis products, beverages, topical products, ointments, oils, and tinctures or smokeless vaporizing devices. Such products, when manufactured or sold by a licensed medical cannabis center, shall not be considered a drug for the purposes of chapter 196.

(20) "Medical cannabis testing facility", an independent entity licensed, approved, and certified by the division pursuant to this act to analyze the safety and potency of cannabis and as otherwise provided under sections 195.900 to 195.985.

(21) "Medical use", the production, possession, distribution, transportation, or administration of cannabis or a cannabis-infused product, for the benefit of a qualifying patient to mitigate the symptoms or effects of the patient's qualifying medical condition.

(22) "Person", a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

(23) "Premises", a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

(24) "Qualifying medical condition", 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, post-traumatic 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 cannabis 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 (ALS), inflammatory bowel disease, Crohn's disease, Huntington's disease, autism, neuropathies, sickle cell anemia, agitation of Alzheimer's disease, cachexia, and wasting syndrome.

(25) "Qualifying patient", a Missouri resident diagnosed with at least one qualifying medical condition.

(26) "Smokeless vaporizing device", a medical-grade vaporizer delivery device capable of administering the active ingredients of a metered dose of medical cannabis via inhalation without combustion by-products.

(27) "State licensing authority", the division of alcohol and tobacco control which is responsible for regulating and controlling the licensing of the cultivation, manufacture, distribution, testing, possession, and sale of medical cannabis in this state.

(28) "Written certification", a document dated and signed by a physician, stating:

(a) That the qualifying patient has a qualifying medical condition and specifying the qualifying medical condition the qualifying patient has; and

(b) That the physician is treating or managing treatment of the patient's qualifying medical condition.

195.903. 1. For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, testing, possession, and sale of medical cannabis in this state, the division of alcohol and tobacco control is hereby designated as the state licensing authority.

2. The state supervisor of the division may employ such officers and employees as may be determined to be necessary, with such officers and employees being part of the division. No moneys shall be appropriated to the division from the general revenue fund for the operation of sections 195.900 to 195.985, nor shall the division expend any general revenue fund moneys for the operation of sections 195.900 to 195.985. Notwithstanding any other provision of law, the division, the Commissioner of Administration, and the State Treasurer are

authorized to receive and disburse funds from any source, public or private, as may assist the prompt implementation of this Act.

195.906. 1. The division shall:

(1) Grant or refuse state licenses for the cultivation, manufacture, distribution, testing, possession, and sale of medical cannabis as provided by law; suspend, fine, restrict, or revoke such licenses upon a violation of sections 195.900 to 195.985, or a rule promulgated under sections 195.900 to 195.985; and impose any penalty authorized by sections 195.900 to 195.985, or any rule promulgated under sections 195.900 to 195.985. The division may take any action with respect to a registration under sections 195.900 to 195.985 as it may with respect to a license under sections 195.900 to 195.985, in accordance with the procedures established under sections 195.900 to 195.985;

(2) Establish, revise, and amend rules and regulations as necessary to carry into effect the provisions of sections 195.900 to 195.985;

(3) Upon denial of a state license, provide written notice of the grounds for such denial of a state license to the applicant and to the local authority and the right of the applicant to a hearing before the administrative hearing commission under subsection 2 of section 195.924;

(4) Maintain the confidentiality of patient records, reports obtained from licensees showing the sales volume or quantity of medical cannabis sold, or any other records that are exempt from inspection under state law;

(5) Develop such forms, licenses, identification cards, and applications as are necessary in the discretion of the division for the administration of sections 195.900 to 195.985 or any of the rules promulgated under sections 195.900 to 195.985; and

(6) Prepare and submit an annual report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the state licensing authority.

2. (1) Rules promulgated under subdivision (2) of subsection 1 of this section shall include, but not be limited to, the following:

(a) Compliance with, enforcement, or violation of any provision of sections 195.900 to 195.985, or any rule issued under sections 195.900 to 195.985, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license issued under sections 195.900 to 195.985;

(b) Specifications of duties of officers and employees of the division;

(c) Instructions for local licensing authorities and law enforcement officers;

(d) Requirements for inspections, investigations, searches, seizures, and such additional activities as may become necessary from time to time;

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

(f) Prohibition of misrepresentation and unfair practices;

(g) Control of informational and product displays on licensed premises;

(h) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed under sections 195.900 to 195.985, including a fingerprint-based criminal record check as may be required by the division prior to issuing a card;

(i) Identification of state licensees and their owners, officers, managers, and employees;

(j) Security requirements for any premises licensed under sections 195.900 to 195.985, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the division to properly administer and enforce the provisions of sections 195.900 to 195.985, including reporting requirements for changes, alterations, or modifications to the premises;

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

(l) Sanitary requirements for medical cannabis centers and medical cannabis cultivation and production facilities, including, but not limited to, sanitary requirements for the preparation of medical cannabis-infused products;

(m) The specification of acceptable forms of picture identification that a medical cannabis center may accept when verifying a sale;

(n) Labeling standards, including, but not limited to, the serving size of active THC per serving and total servings per package;

(o) Testing standards;

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

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

(r) The reporting and transmittal of monthly sales tax payments by medical cannabis centers;

(s) Authorization for the department of revenue to have access to licensing information to ensure sales and income tax payment and effective administration of sections 195.900 to 195.985;

(t) Authorization for the division to impose administrative penalties and procedures of issuing, appealing, and creating a violation list and schedule of administrative penalties; and

(u) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of sections 195.900 to 195.985.

(2) The prompt implementation of this Missouri Patient Care Act is necessary to avoid immediate danger to the public health, safety and welfare. The division is authorized to use the emergency rulemaking procedures set out in section 536.025, and shall promulgate emergency rules by March 6, 2019, and also to file a notice of rulemaking as provided in section 536.025 by March 6, 2019.

(3) Nothing in sections 195.900 to 195.985 shall be construed as delegating to the division the power to fix prices for medical cannabis.

195.909. 1. A local licensing authority may issue only the following medical cannabis licenses upon payment of the fee and compliance with all local licensing requirements to be determined by the local licensing authority:

(1) A medical cannabis center license; and

(2) A medical cannabis cultivation and production facility license.

2. (1) A local licensing authority shall not issue a local license within a municipality or the unincorporated portion of a county unless the governing body of the municipality has adopted an ordinance or the governing body of the county has adopted a resolution containing specific standards for license issuance, or if no such ordinance or resolution is adopted prior to June 1, 2019, a local licensing authority shall consider the minimum licensing requirements of this section when issuing a license.

(2) In addition to all other standards applicable to the issuance of licenses under sections 195.900 to 195.985, the local governing body may adopt additional standards for the issuance of medical cannabis center or medical cannabis cultivation and production facility licenses consistent with the intent of sections 195.900 to 195.985 that may include, but not be limited to:

(a) Distance restrictions between premises for which local licenses are issued; and

(b) Any other requirements necessary to ensure the control of the premises and the ease of enforcement of the terms and conditions of the license.

3. Local governments may limit the use of land for operation of medical cannabis centers and medical cannabis cultivation and production facilities to specified areas as to time, place, and manner of such facilities. Local zoning approval shall be made by the governing body of the municipality if the premises are located in the municipality, or by the governing body of the county if the premises are located in the unincorporated portion of the county. The operation of sections 195.900 to 195.985 shall be statewide unless a municipality, county, or city, by a two-thirds majority of the registered voters voting at a regular election or special election called in accordance with state law, vote to prohibit the operation of medical cannabis centers and medical cannabis cultivation and production facilities in the municipality, county, or city.

4. An application for a license specified in subsection 1 of this section shall be filed with the appropriate local licensing authority on forms provided by the state licensing authority and shall contain such information as the state licensing authority may require and any forms as the local licensing authority may require. Each application shall be verified by the oath or affirmation of the persons prescribed by the state licensing authority.

5. An applicant shall file with the application for a local license, plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. In its discretion, the local or state licensing authority may impose additional requirements necessary for the approval of the application.

195.912. 1. Upon receipt of an application for a local license, except an application for renewal or for transfer of ownership, a local licensing authority shall schedule and hold a public hearing upon the application to be held not less than thirty days after the date of the application, but not more than ninety days from the date of the application. If the local licensing authority fails to hold a public hearing within such time lines, the application shall be considered approved. If the local licensing authority schedules a hearing for a medical cannabis center application and/or a medical cannabis cultivation and production facility application, it shall post and publish public notice thereof not less than ten days prior to the hearing. The local licensing authority shall give public notice by the posting of a sign in a conspicuous place on the medical cannabis center premises and/or the medical cannabis cultivation and production facility premises for which application has been made and by publication in a newspaper of general circulation in the county in which the medical cannabis center premises and/or the medical cannabis cultivation and production premises are located.

2. Public notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. The sign shall contain the names and addresses of the officers, directors, or manager of the facility to be licensed.

3. Public notice given by publication shall contain the same information as that required for signs.

4. If the building in which medical cannabis is to be cultivated, manufactured, distributed, possessed, or sold is in existence at the time of the application, a sign posted as required in subsections 1 and 2 of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall post a sign at the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

5. (1) A local licensing authority, or a license applicant with the authorization of the local licensing

authority, may request that the state licensing authority conduct a concurrent review of a new license application prior to the local licensing authority's final approval of the license application. Local licensing authorities who permit concurrent review shall continue to independently review the applicant's license application.

(2) When conducting a concurrent application review, the state licensing authority may advise the local licensing authority of any items it finds that may result in the denial of the license application. Upon correction of the noted discrepancies if the correction is permitted by the state licensing authority, the state licensing authority shall notify the local licensing authority of its conditional approval of the license application subject to the final approval by the local licensing authority. The state licensing authority shall then issue the applicant's state license upon receiving evidence of final approval by the local licensing authority.

(3) All applications submitted for concurrent review shall be accompanied by all applicable state license and application fees. Any applications which are later denied or withdrawn may allow for a refund of license fees only. All application fees provided by an applicant shall be retained by the respective licensing authority.

195.915. 1. Not less than five days prior to the date of the public hearing authorized in section 195.912, the local licensing authority shall make known its findings, based on its investigation, in writing to the applicant and other parties of interest. The local licensing authority has authority to refuse to issue a license provided for in this section for good cause, subject to judicial review.

2. Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where sections 195.900 to 195.985 specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type, and availability of medical cannabis outlets located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed. A local licensing authority may only issue a medical cannabis center license and a medical cannabis cultivation and production facility license upon payment of the fee and compliance with all local licensing authority.

3. Within thirty days after the public hearing or completion of the application investigation, a local licensing authority shall issue its decision approving or denying an application for local licensure. The decision shall be in writing and shall state the reasons for the decision. The local licensing authority shall send a copy of the decision by certified mail to the applicant at the address shown on the application.

4. After approval of an application, a local licensing authority shall not issue a local license until the building in which the business to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with the applicable provisions of sections 195.900 to 195.985, and then only after the local licensing authority has inspected the premises to determine that the applicant has complied with the architect's drawing and the plot plan and detailed sketch for the interior of the buildings submitted with the application.

5. After approval of an application for local licensure, the local licensing authority shall notify the state licensing authority of such approval, who shall investigate and either approve or disapprove the application for state licensure.

195.918. 1. (1) The division may restrict the number of licenses granted for medical cannabis cultivation and production facilities, provided, however, that number may not be limited to fewer than one license per every one hundred thousand inhabitants of the state of Missouri, according to the most recent census of the United States. Each facility in operation shall require a separate license but multiple licenses may be utilized in a premises. The license shall be valid for one year from its date of issuance and shall be renewable, except for good cause. No more than three medical cannabis and production facility licenses shall be issued to any person under substantially common control, ownership, or management. At least one medical cannabis center license shall be issued for each medical cannabis cultivation and production facility license.

(2) The division may restrict the numbers of licenses granted for medical cannabis centers, provided, however, that number may not be limited to fewer than one license per every one hundred thousand inhabitants of the state of Missouri, according to the most recent census of the United States, except that, an applicant for a medical cannabis center license may be approved for an additional two medical cannabis center licenses in accordance with subdivision (3) of this subsection. Such additional medical cannabis center licenses shall not be counted toward the statewide limit for medical cannabis centers. A license shall be valid for one year from its date of issuance and shall be renewable, except for good cause.

(3) Licenses shall be geographically disbursed by the division, in consultation with the department of health and senior services, based on the demographics of the state and patient demand to ensure statewide access for patients. If more than the statewide limit for medical cannabis centers are necessary to provide sufficient patient access, a medical cannabis cultivation and production facility licensee may be approved for up to an additional two medical cannabis center licenses, subject to approval by the local licensing authority and the division.