

# 2012 Initiative Petitions

## Approved for Circulation in Missouri

### **Constitutional Amendment to Article IV, Relating to Cannabis, version 3, 2012-082**

This measure amends the Missouri Constitution by adding Section 54 to Article 4. This amendment implicitly repeals, in part or in whole, and amends various statutes and subsections including but not necessarily limited to RSMo 105.1105, 105.1108, 105.1112, 195.010.(10)(b)c, 195.010.(10)(d), 195.010.(17)(m)(b), 195.010.(17)(g), 195.010.(17)(l), 195.010(24), 195.015.4, 195.017.2(4)(r), 195.017.2(4)(z), 195.017.2(4)(ii), 195.140.2(2), 195.202.2, 195.202.3, 195.211.2, 195.211.3, 195.211.4, 195.222.7, 195.223.7, 195.223.8, 263.250.1.

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

1. Cannabis shall immediately be removed from the Missouri Revised Statutes list of controlled substances and shall no longer be listed among Missouri's drug schedules.

2. Definition of terms, as used in this Act:

(a) "cannabis" and "cannabis hemp" refer to the natural, non genetically modified plant hemp, cannabis, marihuana, marijuana, cannabis sativa L, cannabis americana, cannabis chinensis, cannabis indica, cannabis ruderalis, cannabis sativa, or any variety of cannabis, including any derivative, concentrate, extract, flower, leaf, particle, preparation, resin, root, salt, seed, stalk, stem, or any product thereof.

(b) "agricultural hemp" and "agricultural cannabis" means all products made from cannabis hemp with a THC content of less than one percent.

(c) "medical cannabis" means all products made from cannabis that are designed, intended, or used for the treatment of any human disease or condition.

(d) "adult use" and "personal adult use" refer to the non-medical consumption of cannabis with greater than 1% THC by persons twenty-one years of age or older.

(e) "cannabis accessories" means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis into the human body.

(f) "Department" means the Department of Health and Senior Services or its successor agency.

(g) "cannabis establishment" means a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a retail cannabis store or other entity licensed to cultivate, prepare, manufacture, package, transport or sell cannabis, cannabis products and cannabis accessories.

(h) "impairment" means the inability of a person to safely perform functional tasks associated with his or her job or with driving due to the influence of alcohol or other drugs.

3. Notwithstanding any other provision of law, the following acts are not unlawful and shall not be an offense under Missouri law or be a basis for seizure or forfeiture of assets under Missouri law for persons twenty-one years of age or older:

(a) Possession of cannabis for personal adult use by persons twenty-one years of age or older.

(b) Cultivating cannabis that is not intended for resale within an area measuring ten feet by ten feet for personal adult use, or in an area sufficient to produce the quantity necessary to address a patient's medical needs under the recommendation of a physician.

(c) Cultivating, harvesting, processing, manufacturing, packaging, distributing, transferring, displaying or possessing cannabis, cannabis accessories, and cannabis products for commercial purposes providing the person has a current, valid license to operate a cannabis establishment or is acting in his or her capacity as an owner, employee or agent of a licensed cannabis establishment.

(d) Providing cannabis, cannabis accessories, and cannabis products for sale to consumers twenty-one years of age or older for personal adult use if the person conducting the activities described in this paragraph has obtained a current, valid license to operate a retail cannabis store or is acting in his or her capacity as an owner, employee or agent of a licensed retail cannabis store.

(e) Leasing or otherwise allowing the use of property owned, occupied or controlled by any person, corporation or other entity for any of the activities conducted lawfully in accordance with paragraphs (a) through (d) of this subsection.

4. Medical cannabis shall be available to patients who have a physician's recommendation.

(a) All patients engaged in cannabis therapy shall be afforded the same rights and privileges afforded to any patient treated through other pharmaceutical means.

(b) Cannabis acquisition, possession, and consumption shall be permitted to patients under the age of twenty-one with the consent of a parent or legal guardian and through the supervision of a parent or legal custodian and a licensed physician.

(c) Licensed physicians shall not be penalized for nor restricted from recommending cannabis for medical purposes to any person.

(d) Opinions pertaining to, and willingness to recommend medical cannabis therapy shall not be a criteria for the licensure of physicians; no physician shall be subject to any professional licensing review or hearing as a result of recommending or approving medical cannabis therapy.

(e) Any individual who is a legal cannabis patient in another state shall be granted the same rights and privileges as a legal Missouri cannabis patient.

(f) Medical care, including organ transplants, shall not be restricted in any way based on a person's use of cannabis.

5. Not later than February 1, 2013, the Department shall adopt regulations necessary for implementation of this section.

(a) All regulations and rules imposed by the Department or any other agency of government shall meet a standard of strict scrutiny as to whether they further the goals of this Act and must be narrowly tailored to meet those goals. Such regulations shall include:

(i) Procedures for the issuance, renewal, suspension, and revocation of a license to operate a cannabis establishment;

(ii) A schedule of application, licensing and renewal fees;

(iii) Qualifications for licensure that are directly and demonstrably related to the operation of a cannabis establishment;

(iv) Security requirements for cannabis establishments;

(v) Civil penalties for the failure to comply with regulations made pursuant to this section;

(vi) The Department shall not require a consumer to provide a retail cannabis store with personal information other than identification to determine the consumer's age, and a retail cannabis store shall not be required to acquire and record personal information about consumers other than information typically acquired in a financial transaction conducted at a retail liquor store.

(b) Each application for an annual license to operate a cannabis establishment shall be submitted to the department. The department shall: (i) Begin accepting and processing applications on July 1, 2013;

(ii) Immediately forward a copy of each application and half of the license application fee to the county, municipality or city and county in which the applicant desires to operate the cannabis establishment;

(iii) Issue an annual license to the applicant between forty-five and ninety days after receipt of an application unless the department finds the applicant is not in compliance with regulations enacted pursuant to paragraph (a);

(iv) Upon denial of an application, notify the applicant of the specific reason for its denial.

(c) Retail cannabis products for medical or adult use shall contain appropriate labeling, which outlines the weight and estimated potency of the product, lists all pesticides used in production, and summarizes the safe and effective use of cannabis. Labels shall not be promotional, false or misleading, and should be based on data derived from scientific study and prevailing human experience.

6. Nothing in this section shall:

(a) Require an employer to retain an employee who is impaired on the job by his use of cannabis.

(b) Permit operation of a motor vehicle by anyone who is impaired by cannabis.

(c) Permit the transfer or sale of cannabis intended for adult use to a person younger than twenty-one years of age.

(d) Forbid any individual or corporate property owner from prohibiting the distribution, sale or cultivation of cannabis within their dwelling.

7. Upon the passage of this Act, all persons incarcerated or under supervision of the Missouri Board of Probation and Parole for non-violent, cannabis-only offenses which

are no longer illegal in the State of Missouri under this Act shall be immediately released.

(a) The Court shall order the immediate expungement of civil and criminal records pertaining to non-violent cannabis only offenses which are no longer illegal in the State of Missouri under this Act.

(b) Within 120 days of the passage of this Act, the Attorney General shall develop and make available to the public an application providing for the destruction of all cannabis-related civil and criminal records in Missouri and for any offense covered by this statute. These applications shall be distributed to all Circuit Court clerks within the State.

8. The Missouri General Assembly may enact a tax of up to \$100 per pound of dried cannabis to be levied upon cannabis which is sold solely for personal adult use at the retail level.

9. No Missouri law enforcement personnel or state funds shall be used to assist or aid and abet in the enforcement of federal cannabis laws involving acts which are no longer illegal in the State of Missouri under this statute.

10. Any person who willfully impedes the lawful exercise of these provisions is guilty of a Class A misdemeanor.

11. Commercial and agricultural cannabis farmers, manufacturers, processors, and distributors shall not be subject to any special zoning requirement, licensing fee, or tax that is excessive, discriminatory, or prohibitive, or in any way significantly different from any other commercial or agricultural farmer, manufacturer, processor or distributor.

12. No person twenty-one years of age or older shall be arrested or prosecuted, nor be subject to any criminal penalties for the possession, cultivation, distribution, or consumption of cannabis.

13. Pursuant to the Ninth and Tenth Amendments to the Constitution of the United States, the people of Missouri hereby repudiate and challenge federal cannabis prohibitions that conflict with this Act.

14. Severability: If any provision of this Act or the application of any such provision to any person or circumstance, shall be held invalid by any court, the remainder of this Act, to the extent it can be given effect, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Act are severable.

15. Construction: If any rival or conflicting initiative regulating any matter addressed by this act receives the higher affirmative vote, then all non-conflicting parts shall become operative.

16. All provisions of this section are self-executing and severable, and, except where otherwise indicated in the text, shall supersede conflicting state or federal statutory, local charter, ordinance, or resolution, and other federal, state and local provisions.

