

HCS HB 800 -- MEDICAL MARIJUANA

SPONSOR: Hinson

COMMITTEE ACTIONS: Voted "Do Pass with Amendments" by the Standing Committee on Emerging Issues by a vote of 10 to 1. Voted "Do Pass with HCS" by the Select Committee on General Laws by a vote of 8 to 0.

This bill establishes the Missouri Compassionate Care Act that specifies a licensure process for medical cannabis centers and allows medical cannabis cultivation and production facilities to possess, cultivate, and dispense cannabis to assist patients with specified debilitating medical conditions. A medical cannabis business must hold both a medical cannabis center license and a medical cannabis cultivation and production facility license in order to do business in Missouri. The business must also have a local license in order to be issued a state license and needs state and local licenses to engage in the activities authorized in the bill. The licenses must be valid for a period not to exceed two years.

A medical cannabis center license allows the licensee to sell medical cannabis that was grown in the licensee's cultivation and production facility and medical cannabis-infused products. The cannabis for medical cannabis-infused products does not need to be grown in its facility, but only cannabis-infused products produced in a licensee's cultivation and production facility may be sold by the licensee's medical cannabis center. A licensee may not purchase more than 30% of its total on-hand inventory from other licensees and may not sell more than 30% of its inventory to another Missouri medical cannabis licensee.

Local governments may enact reasonable zoning rules that limit the use of land for the operation of medical cannabis centers and medical cannabis cultivation and production facilities to specified areas and regulate the time, place, and manner of the facilities. The operation of the center or facility must be statewide unless a municipality, county, or city by a majority of the registered voters prohibits it.

The Division of Alcohol and Tobacco Control within the Department of Public Safety is designated as the state licensing authority for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical cannabis in this state. The division may only employ one full-time employee for each 10 medical cannabis centers that are licensed or applying for licensure, except additional temporary staff may be employed to conduct background checks during the first year of

implementation but the additional costs must not exceed \$500,000. The division must grant or refuse state licenses for the cultivation, manufacture, distribution, and sale of medical cannabis; suspend, fine, restrict, or revoke a license upon a violation; and establish the rules for the proper regulation and control of the cultivation, manufacture, distribution, and sale of medical cannabis, except the rules may not fix prices for medical cannabis. The division must develop the forms, licenses, identification cards, and applications necessary for the administration of the bill and prepare and submit a report each year to the Governor for the efficient discharge of all responsibilities assigned by law or directive to the division. By January 1, 2016, the division must ask the federal Drug Enforcement Administration to consider rescheduling medical cannabis from a Schedule I controlled substance to a Schedule II controlled substance for pharmaceutical purposes.

A local licensing authority may only issue a medical cannabis center license, a medical cannabis cultivation and production facility, or a license for a medical cannabis testing facility upon payment of the fee and compliance with all local licensing requirements as determined by the local licensing authority. An applicant for a local license must file an application that includes the plans and specifications for the interior of the building or a plot plan and a detailed sketch if the building does not exist yet. The licensing authority must hold public hearings upon receipt of the application as specified in the bill. A local licensing authority or applicant for a local license may ask the division to conduct a concurrent review of a new license application prior to the local authority's final approval of the application.

The local licensing authority may refuse to issue a license for good cause, subject to judicial review. The bill specifies the factors the local licensing authority may consider before issuing a decision on an application. The decision must be issued within 30 days after the public hearing or completion of the application investigation. After approval, a license may not be issued until the building is ready for occupancy, is equipped with the materials needed to comply with the bill, and has been inspected by the local licensing authority to determine compliance with the architect's drawing and the plot plan and sketch submitted with the application. The local licensing authority must notify the state licensing authority after approval of an application for local licensure who must investigate and approve or disapprove the application for state licensure.

The division may issue up to 30 state licenses for medical cannabis centers and 30 state licenses for medical cannabis cultivation and

production facilities with specified exceptions. The licenses must be geographically disbursed by the division, in consultation with the Department of Health and Senior Services, to ensure statewide access for patients. An applicant for a medical cannabis center license may be approved for two additional licenses that do not count toward the statewide limit if it is necessary to provide sufficient patient access.

The bill specifies the requirements of an applicant for a state license. An applicant must be at least 21 years of age and may not be a licensed physician making patient recommendations. The bill specifies when the division may deny an application for state licensure and allows a hearing before the Administrative Hearing Commission to an applicant who has been denied. The division must complete a fingerprint-based criminal background check on applicants.

The division or a local licensing authority must not receive or act upon an application for the issuance of a state or local license if the location is the same as or within 1,000 feet of a location that has previously been denied within the previous two years; until it is established that the applicant is entitled to possession of the premises; for a location in an area that the activities are not permitted under the applicable local zoning laws of the municipality or county; or if the building in which medical cannabis is to be sold is within 1,000 feet of a school, an alcohol or drug treatment facility, the principal campus of a college or seminary, or a residential child care facility.

A county or municipality may enact reasonable regulations or restrictions on licenses of medical cannabis centers and cultivation and production facilities based on local zoning, health, safety, and public welfare laws for the distribution of medical cannabis that are more restrictive than the provisions of the bill.

The bill requires a medical cannabis center or cultivation and production facility to provide the division with specified information regarding owners, officers, and employees of the licensee and anyone with a direct or indirect financial interest in the licensee, including fingerprints for criminal background checks. The bill places limitations on a licensee in regard to the transfer of ownership and management and the movement of its location.

The division must notify the licensee of the expiration date 90 days prior to the expiration of the license. A licensee must apply for a renewal to the local authority not less than 45 days and to the division not less than 30 days prior to the expiration date.

If complaints have been filed against the licensee, there is a history of violations, or there are allegations against the licensee that constitute good cause, the local licensing authority may hold a hearing on a license renewal. The requirements for licensees to renew their licenses are specified. The division or local licensing authority may revoke or elect not to renew a license if it determines that the licensed premises have been inactive without good cause for at least a year.

The licensees must collect sales tax on all sales made under the licensing activities.

The bill allows a state-chartered bank or credit union to loan money to any person licensed under the provisions of the bill for the operation of a licensed business.

Labeling and packaging, testing, storage, and processing requirements for cannabis and cannabis-infused products are specified. The bill prohibits certain relationships between testing laboratories and licensees. The requirements for the sanitation and cleanliness of the facilities are specified.

The Medical Cannabis License Cash Fund is created, which consists of all money collected by the division under the provisions of the bill to be used for the administration of the bill, and the Medical Cannabis Program Account within the fund for moneys collected by the Department of Health and Senior Services that must be used for the issuance of registry identification cards to patients and caregivers for the use of medical cannabis.

An applicant for a medical cannabis center and cultivation and production facility license must pay an initial nonrefundable fee of \$12,500 for each license. The division must establish the fees for license renewals, applications to change location or transfer ownership, and testing facility licenses, but the fees must reflect the actual direct and indirect costs to the division in the administration and enforcement of the program. The division may charge licensed applicants a fee for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, managers, or employees. At least annually, the division must review the amounts of the fees and adjust the amounts as necessary. The division must establish a basic fee to be paid at the time of service of any subpoena upon the division plus a fee for meals and mileage for state officers and employees traveling to and from the place named in the subpoena. The subpoena fee must not be applicable to any federal, state, or local governmental agency. Each application for a local license must be accompanied by an application fee and a license fee in an amount determined by the local licensing authority not to exceed 10% of

the state application fee and license fee.

The bill specifies the procedures for sanctions against licensees, including revocation and suspension. The procedures require notice and an opportunity for a hearing. Requirements for record-keeping and procedures for auditing and inspecting the licensees are specified.

The bill specifies several actions relating to medical cannabis that are unlawful which are class A misdemeanors. The bill authorizes a licensee or a licensee's employee who has reasonable cause to believe a person is exhibiting a fraudulent patient registry identification card in an attempt to obtain medical cannabis to confiscate the card, if possible, and to turn it over to the Department of Health and Senior Services or local law enforcement agency with 72 hours.

The Department of Health and Senior Services must establish rules to ensure that patients are not subject to criminal prosecution for their use of medical cannabis and are able to establish an affirmative defense to their use of medical cannabis and prevent persons who do not suffer from legitimate debilitating medical conditions from selling, possessing, producing, using, or transporting cannabis in violation of state and federal laws. The department must establish rules to implement the program that include the establishment and maintenance of a confidential registry of patients who have applied for and are entitled to receive a registry identification card and develop an application form and make it available to residents who are entitled to receive a card, the verification of medical information of applicants for a registry card; the development of a form that must be used by a physician when making a medical cannabis recommendation for a patient, the conditions for issuance and renewal of cards, communications with law enforcement officials about cards that have been suspended, and a waiver process to allow a homebound patient who is on the registry to have a primary caregiver transport the patient's medical cannabis from a licensed medical cannabis center to the patient.

Licensed physicians who have a relationship with a patient seeking to have access to medical cannabis may certify that the patient has a debilitating medical condition and may benefit from the use of medical cannabis. The bill specifies a list of the debilitating medical conditions that may be treated with medical cannabis.

A physician is prohibited from accepting, soliciting, or offering any form of pecuniary remuneration from or to a primary caregiver, distributor, or any other provider of medical cannabis; offering a discount or any other thing of value to a patient who uses or

agrees to use a particular primary caregiver, distributor, or other provider of medical cannabis to procure medical cannabis; examining a patient for purposes of diagnosing a debilitating medical condition at a location where medical cannabis is sold or distributed; or holding an economic interest in an enterprise that provides or distributes medical cannabis if the physician certifies the debilitating medical condition of a patient for participation in the medical cannabis program. The department must conduct a hearing when there is reasonable cause to believe a physician has violated any of these provisions. Upon a finding of unprofessional conduct by the State Board of Medical Examiners or a finding of a violation by the department, the department must restrict a physician's authority to recommend the use of medical cannabis.

The bill places restrictions on patients and primary caregivers, including limitations on where medical cannabis may be used or possessed. The amount of cannabis that a patient may possess is limited to 30 grams during a 14-day period.

To be considered in compliance with the provisions of the bill and the rules of the department, a patient or primary caregiver must have his or her registry identification card in his or her possession at all times that he or she is in possession of any form of medical cannabis and produce the card upon request of a law enforcement officer. The department may deny a patient's application for a registry identification card or revoke the card if the department determines that the physician who diagnosed the patient's debilitating medical condition, the patient, or the primary caregiver violated these provisions or the department's rules. A registry identification card is valid for one year and must contain a unique identification number. The fees that the department may establish are specified. The division may suspend a license, and the department may suspend a registry identification card, pending further proceedings to protect the public health, safety, or welfare.

PROPOSERS: Supporters say that the bill only applies to medicinal uses of marijuana and strictly regulates this use to prevent abuse. Numerous empirical studies and overwhelming first person testimony show that marijuana is useful in treating a number of specific disorders. Many proponents testified that marijuana appears to be especially effective at treating the symptoms, such as nausea and depression, and relieving debilitating pain so that huge doses of prescription narcotic drugs are not needed. The bill will allow the original and proper functioning of the doctor-patient relationship and may help prevent suicide and accidental drug overdoses caused by attempts to treat chronic pain with conventional drugs. Marijuana has not been shown to be addictive or to cause horrible side effects from overdose such as those

occurring when medicating with narcotics. It is clearly immoral to fine or incarcerate patients suffering from traumatic diseases, such as cancer and epilepsy, and severe wounds, such as loss of limbs, when these individuals have not violated anyone else's rights.

Testifying for the bill were Representative Hinson; Joni Miller, Epilepsy Foundation of Missouri and Kansas; Brian Fox, Terra Health; Linda Pevnick, LCSW; Tom Mundell; Missouri Nurses Association; Connie Boudreau; John Payne, Show-Me Cannabis; Montel B. Williams; Eapen Thampy; Lance Mallette; ACLU of Missouri; James Taber; Alan Shackelford, MD.; and Gil Mobley, MD.

OPPONENTS: Those who oppose the bill say that the legislature should not pander to emotional appeals and should allow the Federal Drug Administration to classify drugs and decide whether they have any medical benefit or not. States that allow the use of medical marijuana have seen an increase in drug use by youth. Missouri does not need to become similar to Colorado which is now in crisis because of drug legalization. Most of those in other states holding medical marijuana licenses are young men with no history of medical problems.

Testifying against the bill were Ed Moses; Jason J. Grellner, Missouri Narcotics Officers Association; Missouri Association of Osteopathic Physicians and Surgeons; and Missouri Family Network.

OTHERS: Others testifying on the bill say that it is important to focus on medicinal use when evaluating the bill and that the bill is in an ideal format based on years of experience in other states with medical marijuana. The bill adequately prevents abuse, pays for its enforcement costs, contains correct zoning features, and allows a degree of local control. It is possible that some licensing requirements and limits on distribution will make it more difficult for patients to obtain medical marijuana at reasonable prices.

Testifying on the bill were Michael G. Johnson; Daryl Bertrand; and Matt Cook, Cook Consulting, LLC.