

SECOND REGULAR SESSION

# HOUSE BILL NO. 2160

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE RHOADS.

5763H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapters 192 and 195, RSMo, by adding thereto seven new sections relating to regulation of unauthorized substances.

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

Section A. Chapters 192 and 195, RSMo, are amended by adding thereto seven new sections, to be known as sections 192.946, 195.620, 195.621, 195.622, 195.623, 195.624, and 195.625, to read as follows:

**192.946. 1. The terms used in this section shall have the same meaning as their definitions in section 192.945 and chapter 192, but this shall not limit the power of the department to promulgate rules to achieve the purposes of this section.**

**2. Notwithstanding the provisions of sections 192.945 or any other laws to the contrary, the department may promulgate rules authorizing:**

**(1) The licensing of cannabidiol oil care centers in this state that may be authorized to produce hemp extract in any quantity necessary for research under this section;**

**(2) The use of hemp extract in clinical trials for the experimental treatment of any disorder that may benefit from such treatment;**

**(3) Qualifications and criteria for researchers establishing cannabidiol oil care centers and conducting clinical trials;**

**(4) Limits on the type of disorder studied by researchers and the research protocols to be used in clinical trials; and**

**(5) Requirements limiting research facilities establishing cannabidiol oil care centers under this section based on a preference for highly ranked research universities and research hospitals located in this state.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           **3. If the department develops the rules and regulations allowed under subsection**  
18 **1 of this section, then it shall also promulgate rules governing the issuance of hemp extract**  
19 **registration cards to researchers and their agents, patients, patient caregivers, and others**  
20 **the department deems necessary and proper to fulfill the purposes of this section.**

21           **4. The department shall establish fees that are no greater than the amount**  
22 **necessary to cover the cost the department incurs to implement the provisions of this**  
23 **section.**

24           **5. No individual or health care entity organized under the laws of this state shall**  
25 **be subject to any adverse action by the state or any agency, board, or subdivision thereof,**  
26 **including civil or criminal prosecution, denial of any right or privilege, imposing a civil or**  
27 **administrative penalty or sanction, or disciplinary action by any accreditation or licensing**  
28 **board or commission if such individual or health care entity, in its normal course of**  
29 **business and within its applicable licenses and regulations and in good faith, acts under the**  
30 **authority of departmental rules promulgated under this section relating to the medical use,**  
31 **clinical trials, and administration of hemp extract.**

32

33 **The provisions of this section shall apply to the possession, handling, storage, transfer,**  
34 **destruction, dispensing, or administration of hemp extract, including any act in**  
35 **preparation of such dispensing or administration.**

36           **6. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
37 **created under the authority delegated in this section shall become effective only if it**  
38 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
39 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**  
40 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
41 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
42 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2016,**  
43 **shall be invalid and void.**

**195.620. As used in sections 195.620 to 195.625, the following terms mean:**

2           **(1) "Controlled substance", any drug, substance, or immediate precursor placed**  
3 **in Schedules I through IV listed in this chapter. "Controlled substance" shall not include**  
4 **any drug, substance, or immediate precursor possessed by any person upon a prescription**  
5 **of an authorized practitioner;**

6           **(2) "Dealer", any person who actually or constructively possesses:**

7           **(a) More than thirty-five grams of marijuana; or**

8           **(b) One or more marijuana plants;**

- 9           (c) One or more grams of any other unauthorized substance that is sold by weight;  
10 or
- 11           (d) One or more dosage units of any other unauthorized substance that is not sold  
12 by weight;
- 13           (3) "Director", the director of the department of revenue;
- 14           (4) "Law enforcement agency", any state agency or department, any local police  
15 department, or any sheriff's office authorized to enforce criminal laws;
- 16           (5) "Low-street-value drug", any of the following controlled substances:
- 17           (a) Any anabolic steroid as defined in this chapter;
- 18           (b) Any depressant or stimulant substance as defined in this chapter;
- 19           (c) Any controlled substance with a hallucinogenic effect as described in this  
20 chapter;
- 21           (d) Any substance placed in Schedule V under this chapter;
- 22           (6) "Marijuana", any synthetic cannabinoid and all parts of the plant genus  
23 Cannabis in any species or form thereof, including, but not limited to, Cannabis Sativa L.,  
24 Cannabis Indica, Cannabis Americana, Cannabis Ruderalis, and Cannabis Gigantea,  
25 whether growing or not, the seeds thereof, the resin extracted from any part of the plant;  
26 and every compound, manufacture, salt, derivative, mixture, or preparation of the plant,  
27 its seeds, or resin. It does not include the mature stalks of the plant, fiber produced from  
28 the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture,  
29 salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted  
30 therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of  
31 germination. The term shall not include any nonseed parts and varieties of the cannabis  
32 sativa plant that contain a tetrahydrocannabinol (THC) concentration that does not exceed  
33 three-tenths of one percent on a dry weight basis;
- 34           (7) "Person", any individual, corporation, political subdivision, or other legal  
35 entity;
- 36           (8) "Unauthorized substance", any controlled substance, except any low-street-  
37 value drug.

195.621. 1. An excise tax is hereby levied on unauthorized substances possessed,  
2 either actually or constructively, transported, transferred, sold, or offered to be sold in  
3 violation of Missouri law, by dealers at the following rates:

- 4           (1) Forty cents for each gram, or fraction thereof, of harvested marijuana stems  
5 and stalks that have been separated from and are not mixed with any other parts of the  
6 marijuana plant;

7           (2) Three dollars and fifty cents for each gram, or fraction thereof, of marijuana,  
8 other than separated stems and stalks taxed under subdivision (1) of this subsection or  
9 plants with foliage taxed under subdivision (3) of this subsection;

10           (3) Three hundred fifty dollars per plant, whether growing or detached from the  
11 soil, on each marijuana plant with foliage;

12           (4) Fifty dollars for each gram, or fraction thereof, of cocaine;

13           (5) Two hundred dollars for each gram, or fraction thereof, of any other controlled  
14 substance or low-street-value drug that is sold by weight;

15           (6) Fifty dollars for each one dosage unit, or fraction thereof, of any  
16 low-street-value drug that is not sold by weight; or

17           (7) Two hundred dollars for each one dosage unit, or fraction thereof, of any other  
18 controlled substance that is not sold by weight.

19           2. A quantity of marijuana or other unauthorized substance shall be measured by  
20 the weight of the substance whether pure, impure, or dilute, or by the number of dosage  
21 units in the dealer's possession if the substance is not sold by weight. A quantity of an  
22 unauthorized substance shall be deemed dilute if it consists of a detectable quantity of pure  
23 controlled substance and any excipients or fillers.

24           3. For purposes of this section, a person constructively possesses an unauthorized  
25 substance if the person has knowledge of the substance and the ability and intention to  
26 exercise control over the substance.

27           4. The tax levied in this section shall not apply to a substance in the possession of  
28 a dealer who is authorized by law to possess the substance. This exemption shall apply  
29 only during the time the dealer's possession of the substance is authorized by law.

30           5. The tax levied in this section shall not apply to the following marijuana:

31           (1) Harvested mature marijuana stalks if separated from and not mixed with any  
32 other parts of the marijuana plant;

33           (2) Fiber or any other product of marijuana stalks described in subdivision (1) of  
34 this subsection, except resin extracted from the stalks;

35           (3) Marijuana seeds that have been sterilized and are incapable of germination; or

36           (4) Roots of the marijuana plant.

195.622. 1. The director shall issue stamps to affix to unauthorized substances to  
2 indicate payment of the tax required by sections 195.620 to 195.625. Dealers shall report  
3 the taxes payable at the time and on the form prescribed by the director. Dealers shall not  
4 be required to give their name, address, Social Security number, or other identifying  
5 information on the form. Upon payment of the tax, the director shall issue stamps in an

6 amount equal to the amount of the tax paid. Taxes shall be paid and stamps shall be issued  
7 either by mail or in person.

8       **2. Every law enforcement agency shall report to the department of revenue within**  
9 **forty-eight hours after seizing an unauthorized substance, or making an arrest of an**  
10 **individual in possession of an unauthorized substance, listed in this subsection upon which**  
11 **a stamp has not been affixed. The report shall be in the manner prescribed by the director,**  
12 **and shall include the time and place of the arrest or seizure, the amount, location, and kind**  
13 **of substance, the identification of any individual in possession of the substance and such**  
14 **individual's Social Security number, and any other information prescribed by the director.**  
15 **The report shall be made if the arrest or seizure involves any of the following unauthorized**  
16 **substances upon which a stamp has not been affixed as required by sections 195.620 to**  
17 **195.625:**

18       **(1) More than one gram of marijuana;**

19       **(2) One or more marijuana plants;**

20       **(3) More than one gram of any other unauthorized substance that is sold by weight;**

21 **or**

22       **(4) More than one dosage unit of any other unauthorized substance that is not sold**  
23 **by weight.**

24       **3. Any report from any crime laboratory in the state relating to the testing,**  
25 **analysis, or identification of any unstamped unauthorized substance seized by any law**  
26 **enforcement agency shall be provided to the department of revenue within ten days of the**  
27 **laboratory's findings for the purposes of sections 195.620 to 195.625.**

**195.623. 1. The tax imposed under sections 195.620 to 195.625 shall be paid by any**  
2 **dealer who actually or constructively possesses an unauthorized substance in this state**  
3 **upon which the tax has not been paid as evidenced by a stamp issued by the director. Upon**  
4 **payment of the tax, the dealer shall permanently affix the appropriate stamps to the**  
5 **unauthorized substance. Once the tax due on an unauthorized substance has been paid, no**  
6 **additional tax is due under sections 195.620 to 195.625 even though the unauthorized**  
7 **substance may be handled by other dealers.**

8       **2. Notwithstanding any other provision of law to the contrary, an assessment**  
9 **against a dealer who possesses an unauthorized substance to which a stamp has not been**  
10 **affixed as required by sections 195.620 to 195.625 shall be made as provided in this section.**  
11 **The director shall immediately assess the tax, applicable penalty, and interest based on any**  
12 **information brought to the attention of the director, or the director's duly authorized**  
13 **assistants, that a person is liable for unpaid tax under sections 195.620 to 195.625. The tax**  
14 **shall be assessed in the same manner as any other tax assessment, except if sections 195.620**

15 to 195.625 specify otherwise. The director shall notify the dealer in writing of the amount  
16 of the tax, penalty, and interest due, and demand its immediate payment. The notice of  
17 assessment and demand for payment shall be either mailed to the dealer at the dealer's last  
18 known address or served on the dealer in person. If the dealer does not pay the tax,  
19 penalty, and interest immediately upon receipt of the notice and demand, the director shall  
20 collect the assessment, including penalty and interest, under the procedures in chapter 140  
21 unless the dealer files with the director sufficient security in the amount of the assessment,  
22 including penalty and interest. If security is not provided, the director shall use all means  
23 available to collect the assessment from any property in which the dealer has a legal,  
24 equitable, or beneficial interest. Any claim for a refund of the taxes paid shall be filed  
25 within six months of the date of payment of the tax.

195.624. 1. There is hereby created in the state treasury the "Drug Task Force  
2 Enforcement Fund", which shall consist of moneys collected under sections 195.620 to  
3 195.625. The state treasurer shall be custodian of the fund and may approve  
4 disbursements from the fund in accordance with sections 30.170 and 30.180. The fund  
5 shall be a dedicated fund and, upon appropriation, moneys in the fund shall be used solely  
6 for the purposes of sections 195.620 to 195.625. Notwithstanding the provisions of section  
7 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall  
8 not revert to the credit of the general revenue fund. The state treasurer shall invest  
9 moneys in the fund in the same manner as other funds are invested. Any interest and  
10 moneys earned on such investments shall be credited to the fund.

11 2. The director shall credit the proceeds of the tax levied under sections 195.620 to  
12 195.625 to the drug task force enforcement fund until the tax proceeds are unencumbered.  
13 The state treasurer shall remit the unencumbered tax proceeds as provided in this section  
14 on a quarterly or more frequent basis.

15 3. (1) Tax proceeds shall be deemed unencumbered under this section when:

16 (a) The tax has been paid and the collection process completed; and

17 (b) a. The taxpayer has no current right to file a refund claim, and the paid tax is  
18 not the subject of any pending lawsuit for the recovery of that tax; or

19 b. The time for the taxpayer to file suit for a refund has expired.

20 (2) The state treasurer shall first apply the unencumbered tax proceeds to the costs  
21 of storing and disposing of the assets seized in payment of the assessment under sections  
22 195.620 to 195.625, which costs shall be added to and become part of the assessment. The  
23 state treasurer shall remit the remaining unencumbered tax proceeds that were collected  
24 by assessment to each of the following entities in the following percentages:

25 (a) The department of revenue, twenty percent, for the cost of collection;

26 (b) The department of health and senior services, ten percent, to fund drug  
27 treatment and antidrug public awareness programs;

28 (c) The department of public safety, seventy percent, to fund multijurisdictional  
29 enforcement groups, as defined in this chapter, for the purpose of investigating, combating,  
30 preventing, and reducing drug-related crimes, to be distributed based on population served  
31 and demonstrated need as determined by the department of public safety.

32 4. Notwithstanding any other provision of this section to the contrary, in the event  
33 the tax levied under sections 195.620 to 195.625 is voluntarily paid to the department of  
34 revenue, and not as a result of an investigation or arrest by a law enforcement agency, such  
35 voluntarily paid tax shall be considered unencumbered upon payment, and the director  
36 shall credit the entire tax proceeds to the general revenue fund.

195.625. 1. The provisions of sections 195.620 to 195.625 shall not be construed to  
2 confer any immunity from criminal prosecution or conviction for a violation of this chapter  
3 or chapter 579 upon any person who voluntarily pays the tax imposed under sections  
4 195.620 to 195.625 or who otherwise complies with sections 195.620 to 195.625.

5 2. Notwithstanding any other provision of law to the contrary, information  
6 obtained under sections 195.620 to 195.625 shall be confidential and, unless independently  
7 obtained, shall not be used in a criminal prosecution other than a prosecution for a  
8 violation of sections 195.620 to 195.625. Stamps issued under sections 195.620 to 195.625  
9 shall not be used in a criminal prosecution other than a prosecution for a violation of  
10 sections 195.620 to 195.625. Nothing in this section nor section 32.057 shall be construed  
11 to prohibit the director from publishing statistics that do not disclose the identity of dealers  
12 or the contents of particular returns or reports.

13 3. (1) There is hereby established a commission to review the rates of the tax levied  
14 under sections 195.620 to 195.625 and to make recommendations concerning increases in  
15 the rate of the tax to the general assembly. The commission shall be known as the  
16 "Unauthorized Substance Tax Commission" and shall consist of five members as follows:

17 (a) The superintendent of the Missouri state highway patrol;

18 (b) The director of the Missouri state highway patrol crime laboratory;

19 (c) The director of the department of revenue;

20 (d) Two members who are employees of any county or municipal law enforcement  
21 agency, to be appointed by the governor.

22 (2) Of the initial members appointed by the governor, one shall hold office for one  
23 year, and one shall hold office for two years. Members appointed after expiration of the  
24 initial terms shall be appointed to a two-year term. Each member may be reappointed.  
25 Vacancies shall be filled by appointment by the governor for the remainder of the

26 **unexpired term. The members shall not receive compensation for their services, but may**  
27 **be reimbursed for their actual and necessary expenses incurred in service of the**  
28 **commission.**

29 **4. The department of revenue may promulgate rules to implement the provisions**  
30 **of sections 195.620 to 195.625. Any rule or portion of a rule, as that term is defined in**  
31 **section 536.010, that is created under the authority delegated in this section shall become**  
32 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**  
33 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**  
34 **of the powers vested with the general assembly under chapter 536 to review, to delay the**  
35 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**  
36 **then the grant of rulemaking authority and any rule proposed or adopted after August 28,**  
37 **2016, shall be invalid and void.**

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