

# Missouri Says "Yes" to Medical Marijuana - What To Know Now

## Cannabis Business Legal News

By Michael McGrory on November 7, 2018

While the official tally is not yet in, it became clear late Tuesday night that Missouri voters have chosen to legalize medical marijuana in their state.

Missouri citizens voted to adopt Amendment 2, or the New Approach Missouri Amendment. Amendment 3 (the Bradshaw Amendment) and Proposition C (the Missouri Patient Care Act) failed to garner enough votes to pass. It would not be surprising, though, if this is not the last we hear from the backers of Amendment 3 and Proposition C. A great deal of money and effort went into promoting the three competing ballot initiatives, and the backers of the unsuccessful efforts may very well mount a legal challenge.

### **Key Provisions of Amendment 2**

Amendment 2 provides a robust program that should allow for a flourishing medical marijuana industry in Missouri, while at the same time caters to patients with modest registration fees, home grow provisions, and other protective measures. Entrepreneurs who hope to get involved in Missouri's medical cannabis industry must be familiar with the licensure and regulatory scheme set out in Amendment 2. Here is a quick breakdown of some of the key characteristics:

- **Regulatory Agency:** Missouri's medical marijuana program will be overseen by the Department of Health and Senior Services. The Department will create rules, oversee licensure, and enforce regulations. Missouri residents should expect the Department to craft a far more comprehensive system of rules than those contained in the text of Amendment 2.
- **Number of Licenses:** Amendment 2 provides for at least 24 dispensaries in each of Missouri's eight congressional districts, for a total of 192. There will be one cultivation center per 100,000 Missouri residents, and one infused product manufacturer per 100,000 Missouri residents. There will also be licenses for labs, cannabis transporters, and seed-to-sale tracking systems.
- **Fees:** Cultivation center applicants will have to pay a \$10,000 application fee, and a \$25,000 annual renewal fee. Dispensaries and infused product manufacturers will see a \$6,000 application fee and a \$10,000 annual renewal

## Missouri Says "Yes" to Medical Marijuana - What To Know Now

fee. Applicants can pre-file the application fee beginning January 5, 2019.

- **Deadlines:** Amendment 2 becomes effective on December 6, 2018. The Department must issue business application forms available within 180 days of the effective date, begin accepting business applications within 240 days of the effective date, and approve or deny those applications within 150 days after submission. Unless the Department is particularly quick, application forms should be available by early June, and decisions rendered by January 2020.
- **Taxes:** Marijuana products sold at dispensaries will be taxed at a rate of 4%, which is on top of other applicable taxes.
- **Medical Conditions:** There are ten broad categories of qualifying medical conditions that can be treated with marijuana under Amendment 2, including PTSD and chronic pain.
- **License Restrictions:** A marijuana business applicant must be majority owned by people who have been citizens of Missouri for at least one year prior to the application. With some exceptions, a license-holder cannot be owned by or employ anyone who has been convicted of a disqualifying felony offense. And, a cannabis business cannot locate within 1000 feet of an elementary or secondary school, a child daycare center, or a church.
- **License Considerations:** Amendment 2 directs the Department to consider a variety of factors when ruling on an application. These include, generally, the applicant's character and experience, the applicant's business plan, safety and security, and the potential for positive impact in the community.

### **Next Steps for Medical Cannabis License Hopefuls**

Even though the contours of Missouri's medical cannabis program may not yet be etched in stone, and applications will not be due for several months, now is not the time for marijuana entrepreneurs to sit on the fence. There are a number of steps license hopefuls can take to get started and to enhance their position. While this list is by no means exhaustive, it is a start:

- **Assemble Your Team:** It is time to put one's team together and begin shepherding them toward the ultimate goal. Aspirants should also formalize any organizational agreements, taking care to hammer out any contentious terms; it is almost always much cheaper to negotiate now rather than litigate later.
- **Engage Lawyers, CPAs, Consultants, etc.:** Applicants will need experienced lawyers to advise on the application process, accountants to advise on the thorny industry tax issues, and operational consultants to assist with cultivation plans, security, plant tracking, etc. Better to line up the best available now, before they get too busy to help.

- **Financials:** Prospective applicants should take a close and realistic look at how much they expect it will cost to implement their plan, and ensure they have the capital to succeed.
- **Build Community Support:** Applicants should have a good idea about where they want to locate, and should take steps to advocate in support of their proposed business. A willingness to talk with community members and other stakeholders can go a long way in the successful application process, as can education about the industry and help the industry provides to sick people.
- **Banking:** It can be difficult for marijuana businesses to secure traditional banking services. Finding a bank is important, and can take a long time. Hopeful applicants should not delay.
- **Get Comfortable with the Risk:** Growing and selling marijuana remains a crime under federal law, regardless of the views of the citizens in Missouri or the dozens of other states with medical or recreational cannabis programs. While there are some protections in place for industry members who operate consistent with state law, there are decidedly no guarantees. And applicants should not only get comfortable with the potential criminal consequences, they should also get comfortable with the many other complications this federal/state conflict creates. Tax deductions are limited, bankruptcy protections are limited, intellectual property protections are limited—the list goes on and on.

### **Conclusion**

Amundsen Davis's medical cannabis counsel have been through this process with a number of states, and appreciate how exciting and tumultuous it can be to implement a brand new medical marijuana program like this. Prospective applicants have a lot of work to do to ensure that their application is as good as it can be, and should get started without delay.

Missouri  
Says "Yes"  
to Medical  
Marijuana -  
What To  
Know Now