

**Missouri Constitution
Article XIV**



**Medical Marijuana
Adult Use Marijuana**

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GROUND RULES



- 1 – IF YOU HAVE A QUESTION ASK
- 2 – TURN YOUR CELL PHONE TO SILENT
- 3 – COURTS / JUDGES GIVE A LOT OF CREDIT IF YOU
CAN SAY "I CALLED THE ATTORNEY AND ASKED"
CALL YOUR PROSECUTOR OR CONTRACT
ATTORNEY
- 4 – I DON'T EXPECT YOU TO REMEMBER
EVERYTHING, I DO EXPECT YOU TO ASK
QUESTIONS!

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Why should you pay attention?

An important part of your professional life is staying current with changes in the law. If you misapply the law, you could find that your actions could result in:

- A - The dismissal of charges against a criminal.
- B - Civil liability for your actions.
- C - Possible Criminal Charges against you.
- D - Loss of your Job.
- E - Loss of your POST credentials.
- F - Financial devastation.



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Goals

At the conclusion of this session, you should be able to:

1. Identify Article XIV and its sections.
2. Identify limitations on Marijuana in Missouri.
3. Identify what is lawful use and possession of Marijuana in Missouri.
4. Identify Civil Penalties for violations of the Amendment.
5. Identify when Criminal violations may occur pursuant to the Amendment.
6. Discuss why Missouri drug laws have been impacted due to Article XIV – Section 2.
7. Identify requirements for Search Warrants for alleged Marijuana violations.
8. Identify requirements for Arrest Warrants for alleged Marijuana violations.
9. Identify requirements after executing any search for alleged Marijuana violation.
10. Identify and Discuss reporting requirements.



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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT

On November 8, 2022, the voters of the State of Missouri approved an Amendment to the Missouri Constitution, Article XIV. This Amendment authorizes changes to the right and access to medical marijuana in Section 1 and in Section 2 allows for the adult use, possession and cultivation of recreational marijuana.

Article XIV – Section 1 – Medical Marijuana

Article XIV – Section 2 – Adult Use Marijuana



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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT



As we go through this presentation and discussion, please keep in mind:

- 1 – This is an Amendment to the Constitution of the State of Missouri.
 - a – It can not be changed by the legislature.
 - b – It can not be overruled by the courts.
- 2 – The Courts can interpret it.
- 3 – We do not know what we do not know.
- 4 – Have many conversations with your Prosecutor. (Wants convictions)
- 5 – Have many conversations with your Contract Attorney. (Risk Management)
- 6 – The Missouri Department of Health is the controlling State Agency.
- 7 – You will see an exponential increase in court ordered expungements and staff time devoted to those expungements.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT

*The Stated Intent*

XIV Section 2. Marijuana legalization, regulation, and taxation. — 1. Purpose.

The purpose of this section is to make marijuana legal under state and local law for adults twenty-one years of age or older, and to control the commercial production and distribution of marijuana under a system that licenses, regulates, and taxes the businesses involved while protecting public health.

The intent is to prevent arrest and penalty for personal possession and cultivation of limited amounts of marijuana by adults twenty-one years of age or older; remove the commercial production and distribution of marijuana from the illicit market; prevent revenue generated from commerce in marijuana from going to criminal enterprises; prevent the distribution of marijuana to persons under twenty-one years of age; prevent the diversion of marijuana to illicit markets; protect public health by ensuring the safety of marijuana and products containing marijuana; and ensure the security of marijuana facilities.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT

*The Stated Intent*

XIV Section 2. Marijuana legalization, regulation, and taxation. — 1. Purpose. (cont.)

This section is not intended to allow for the public use of marijuana, driving while under the influence of marijuana, the use of marijuana in the workplace, or the use of marijuana by persons under twenty-one years of age.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT

You Should Remember

- 1 – Adult Use Marijuana (Recreational) may only be purchased from a licensed facility or grown by the consumer.
- 2 – Current medical dispensaries and other facilities were granted licenses effective February 3, 2023.
- 3 – Licenses applications for the personal cultivation of recreational marijuana started to be accepted on February 3, 2023.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT

- 4 - A holder of a medical marijuana license may possess up to fifteen (15) ounces.
 - A – A sixty (60) day supply pursuant to a prescription, which is twelve (12) ounces.
 - B – Three (3) ounces pursuant to Adult Use Provisions.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT

ARTICLE XIV – Section 2

3. Limitations.

- (1) Except as otherwise provided in this Article, this section does not preclude, limit, or affect laws that assign liability relative to, prohibit, or otherwise regulate:
 - (a) Delivery or distribution of marijuana or marijuana accessories, with or without consideration, to a person younger than twenty-one years of age;
 - (b) Purchase, possession, use, or transport of marijuana or marijuana accessories by a person younger than twenty-one years of age;
 - (c) Consumption of marijuana by a person younger than twenty-one years of age;

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
Article XIV-Section 2



3. Limitations.

(d) Operating or being in physical control of any motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana.

Notwithstanding the foregoing, *a conviction of a person who is at least twenty-one years of age for any applicable offenses shall require evidence that the person was in fact under the influence of marijuana at the time the person was in physical control of the motorized form of transport and NOT SOLELY on the presence of tetrahydrocannabinol (THC) or THC metabolites, or a combination thereof, in the person's system.*

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
Article XIV-Section 2



3. Limitations.

(e) Consumption of marijuana while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(f) Smoking marijuana within a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

(g) Possession or consumption of marijuana or possession of marijuana accessories on the grounds of a public or private preschool, elementary or secondary school, institution of higher education, in a school bus, *or on the grounds of any correctional facility;*

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
Article XIV-Section 2



3. Limitations.

(h) Smoking marijuana in a location where smoking tobacco is prohibited;

(i) Consumption of marijuana in a public place, *other than in an area licensed by the authorities having jurisdiction over the licensing and/or permitting of said activity*, as set forth in subsection 5 of this section;

(j) Conduct that endangers others;

(k) Undertaking any task while under the influence of marijuana, if doing so would constitute negligence, recklessness, or professional malpractice; or

(l) Performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol, unless licensed for this activity by the department.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
ARTICLE XIV – Section 2



10. Personal Use of Marijuana.

(1) Subject to the limitations in subsection 3 of this section, the following acts by a person at least twenty-one years of age are not unlawful and shall not be an offense under state law or the laws of any local government within the state or be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government:

(a) Purchasing, possessing, consuming, using, ingesting, inhaling, processing, transporting, delivering without consideration, or distributing without consideration three ounces or less of dried, unprocessed marijuana, or its equivalent;

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
ARTICLE XIV – Section 2



(b) Possessing, transporting, planting, cultivating, harvesting, drying, processing, or manufacturing up to **six flowering** marijuana plants, **six nonflowering** marijuana plants (over fourteen inches tall), and **six clones** (plants under fourteen inches tall) provided the person is registered with the department for cultivation of marijuana plants under this section, provided:

a. The plants and *any marijuana produced by the plants in excess of three ounces are kept at one private residence, are in a locked space, and are not visible by normal, unaided vision from a public place;* and

b. Not more than twice the number of allowable plants under paragraph (b) of this subdivision are kept in or on the grounds of a private residence at one time.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
ARTICLE XIV – Section 2



10. Personal Use of Marijuana.

(1) Subject to the limitations in subsection 3 of this section, ...

(3) A person who, pursuant to this section, cultivates marijuana plants that are not kept in a locked space is subject to a **civil penalty** not exceeding two hundred and fifty dollars and forfeiture of the marijuana.

(4) A person who smokes marijuana in a public place, other than in an area licensed for such activity by the authorities having jurisdiction over the licensing and/or permitting of said activity, is subject to a **civil penalty** not exceeding one hundred dollars.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
ARTICLE XIV – Section 2



10. Personal Use of Marijuana.

(5) A person who is under twenty-one years of age who possesses, uses, ingests, inhales, transports, delivers without consideration or distributes without consideration three ounces or less of marijuana, or possesses, delivers without consideration, or distributes without consideration marijuana accessories is subject to a **civil penalty** not to exceed one hundred dollars and forfeiture of the marijuana. *Any such person shall be provided the option of attending up to four hours of drug education or counseling in lieu of the fine.*

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
ARTICLE XIV – Section 2



10. Personal Use of Marijuana.

(6) Subject to the limitations of this section, *a person who possesses not more than twice the amount of marijuana allowed pursuant to this subsection, produces not more than twice the amount of marijuana allowed pursuant to this subsection, delivers without receiving any consideration or remuneration to a person who is at least twenty-one years of age not more than twice the amount of marijuana allowed by this subsection, or possesses with intent to deliver not more than twice the amount of marijuana allowed by this subsection:*

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
ARTICLE XIV – Section 2



10. Personal Use of Marijuana.

(6) ...not more than twice the amount of marijuana allowed by this subsection:

(a) For a *first violation*, is subject to a civil infraction punishable by a **civil penalty** not exceeding two hundred and fifty dollars and forfeiture of the marijuana;

(b) For a *second violation*, is subject to a civil infraction punishable by a **civil penalty** not exceeding five hundred dollars and forfeiture of the marijuana;

(c) For a *third or subsequent violation*, is subject to a **misdemeanor** punishable by a fine not exceeding one-thousand dollars and forfeiture of the marijuana;

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT

ARTICLE XIV – Section 2

10. Personal Use of Marijuana

(6) ...not more than twice the amount of marijuana allowed by this subsection:

(d) *A person under twenty-one years of age* is subject to a **civil penalty not to exceed two hundred and fifty dollars**. Any such person shall be provided the option of attending up to eight hours of drug education or counseling in lieu of the fine; and

(e) In lieu of payment, penalties under this subsection may be satisfied by the performance of community service. The rate of pay-down associated with said service option will be the greater of \$15 or the minimum wage in effect at the time of judgment.

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What current Missouri State Statutes are impacted?

579.015. Possession or control of a controlled substance — penalty. — 1. A person commits the offense of possession of a controlled substance if he or she knowingly possesses a controlled substance, except as authorized by this chapter or [chapter 195](#).

3. The offense of possession of more than ten grams but thirty-five grams or less of marijuana or any synthetic cannabinoid is a class A misdemeanor.

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What current Missouri State Statutes are impacted?

579.015. Possession or control of a controlled substance — penalty. — 1. A person commits the offense of possession of a controlled substance if he or she knowingly possesses a controlled substance, except as authorized by this chapter or [chapter 195](#).

4. The offense of possession of not more than ten grams of marijuana or any synthetic cannabinoid is a class D misdemeanor.

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What current Missouri State Statutes are impacted?

579.020. Delivery of a controlled substance — penalties. — 1. A person commits the offense of delivery of a controlled substance if, except as authorized in this chapter or [chapter 195](#), he or she:

- (1) Knowingly distributes or delivers a controlled substance;
- (2) Attempts to distribute or deliver a controlled substance;
- (3) Knowingly possesses a controlled substance with the intent to distribute or deliver any amount of a controlled substance; or
- (4) Knowingly permits a minor to purchase or transport illegally obtained controlled substances.

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What current Missouri State Statutes are impacted?

579.055. Manufacture of a controlled substance — penalties. — 1. A person commits the offense of manufacture of a controlled substance if, except as authorized in this chapter or chapter 195, he or she:

- (1) Knowingly manufactures, produces, or grows a controlled substance;
- (2) Attempts to manufacture, produce, or grow a controlled substance; or
- (3) Knowingly possesses a controlled substance with the intent to *manufacture, produce, or grow* any amount of controlled substance.

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What current Missouri State Statutes are impacted?

579.055. Manufacture of a controlled substance — penalties. —

4. The offense of manufacturing thirty-five grams or less of marijuana or synthetic cannabinoid is a class E felony.

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What current Missouri State Statutes are impacted?



579.065. Trafficking drugs, first degree — penalty.

A person commits the offense of trafficking drugs in the first degree if,....such person knowingly distributes, delivers, **manufactures, produces** or attempts to distribute, deliver, manufacture or produce:

- (7) More than **thirty kilograms** of a mixture or substance containing marijuana;

The offense is a class B Felony, but is an A Felony if more than **one hundred kilograms**.

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What current Missouri State Statutes are impacted?



579.068. Trafficking drugs, second degree — penalty.

A person commits the offense of trafficking drugs in the first degree if,....such person **knowingly possesses or has under his or her control**,...

- (7) More than **thirty kilograms** of a mixture or substance containing marijuana;

The offense is a class C Felony, but is a B Felony if more than **one hundred kilograms**.

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What current Missouri State Statutes are impacted?



But do you remember?

Article XIV – Section 2 – Paragraph 10 (1) (b)

- a. The plants and **any marijuana produced by the plants in excess of three ounces are kept at one private residence, are in a locked space, and are not visible by normal, unaided vision from a public place;** and

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
COUNTY ORDINANCES
Jefferson County



205.200 Possession of Marijuana.

[Ord. No. 11-0226 §1, 7-12-2011]

A. Except as authorized by Sections 195.005 to 195.425, RSMo., it is unlawful for any person to possess or have under his or her control marijuana as defined in Section 195.010, RSMo., in the unincorporated area of Jefferson County, Missouri.

B. Violations of this Section shall be prosecuted in the Jefferson County Municipal Court by the Jefferson County Municipal Prosecutor and shall be subject to the General Penalty set forth in Section 100.030 of the Code of Ordinances of Jefferson County.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
Clay County



Sec. 90.37. - Marijuana; hashish.

(A)It shall be unlawful for any person to manufacture, possess, use, sell, give away, dispense, or distribute or smoke hashish or marijuana, in the amount of 35 grams or less of marijuana or five grams or less of hashish.

(B)It shall be unlawful for any person, knowing the drug related nature of the object, to possess, sell, lend, rent, lease, give, exchange, or otherwise distribute to any person any drug paraphernalia in any park or recreation area.

(C)It shall be unlawful for any person to use or to possess with the intent to use, any drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, produce, store, contain, ingest, inject, inhale, or otherwise introduce into the human body a controlled substance.

Items considered as paraphernalia are in accordance to those found in RSMo. Ch. 195, §§ 195.010 through 195.320, as amended.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
St. Louis County



716.170 - Drugs—Prohibited.

(1) A person shall not have in his possession, custody, or control any narcotic drug or marijuana as each is defined by the laws of the State of Missouri.

(2) A person shall not sell, offer for sale, prescribe, administer, dispense, distribute, give, or offer to give to any person a narcotic drug or marijuana as defined by the laws of the State of Missouri.

(3) This section shall not apply to any person who may be specifically authorized by law to possess, sell, prescribe, administer, dispense, distribute or give away a narcotic drug or marijuana.

(O. No. 8573, 2-3-78)

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT

**For Your consideration:**

1. Contraband?
2. Paraphernalia?
3. County Ordinances?
4. Municipal Ordinances?
5. County events – Festival, Fair, Parade, Street Events
6. Drug Recognition Expert
7. Taxation – Article XIV, Section 2, Paragraph 6 (5)

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT



What new rules must law enforcement follow?

Search and Arrest Warrant Applications
Article XIV - Section 1 – Paragraph 5 (12)

Article XIV – Section 2 – Paragraph 7 (6)

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Article XIV, Section 1 – Paragraph 5 (12)



Medical Marijuana

Additional Patient, Physician, Nurse Practitioner, Caregiver and Provider Protections

(12) In the process of requesting a search or arrest warrant relating to the production, possession, transportation or storage of marijuana, a state or local law enforcement official shall verify with the department whether the targeted person is a qualifying patient or primary caregiver holding an identification card allowing for cultivation of marijuana plants under subdivision (12) of subsection 3 of this section, and shall inform the issuing authority accordingly when making the warrant request.

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Article XIV, Section 1 – Paragraph 5 (12)



Medical Marijuana

Additional Patient, Physician, Nurse Practitioner, Caregiver and Provider Protections

(cont.) Evidence of marijuana alone, *without specific evidence indicating that the marijuana is outside of what is lawful for medical or adult use*, cannot be the basis for a search of a patient or non-patient, including their home, vehicle or other property. Lawful marijuana related activities cannot be the basis for a violation of parole, probation, or any type of supervised release. State and local law enforcement shall only have access to such department information as is necessary to confirm whether the targeted person holds registration card.

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Article XIV, Section 2 – Paragraph 7



Adult Use Marijuana

7. Additional Protections.

(6) Prior to requesting a search or arrest warrant relating to cultivation of marijuana plants, a state or local law enforcement official shall verify with the department whether the targeted person holds a registration card allowing for cultivation of flowering marijuana plants under this section, and shall inform the issuing authority when making the warrant request. Evidence of marijuana alone, *without specific evidence indicating that the marijuana is outside of what is lawful for medical or adult use*, cannot be the basis for a search of a patient or non-patient, including their home, vehicle or other

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Article XIV, Section 2 – Paragraph 7



Adult Use Marijuana

7. Additional Protections.

(cont.) property. Lawful marijuana related activities cannot be the basis for a violation of parole, probation, or any type of supervised release. State and local law enforcement shall have access to such department information as is necessary to confirm whether the targeted person holds a registration card. Each time a state or local law enforcement officer executes a search warrant authorizing entry upon premises for an alleged marijuana offense, the officer must first knock or announce their presence or purpose prior to entering the premises. (Emphasis added)

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
Search and Arrest Warrant Applications

1 – Contact the Missouri Department of Health

A) Is the suspect a qualifying patient or primary caregiver holding an identification card allowing for cultivation of marijuana plants. – Article XVI, Section 1, Paragraph 5(12).

B) Is the suspect a holder of a registration card allowing for cultivation of flowering marijuana plants for adult use – Article XVI, Section 2, Paragraph 7 (6).

2 - This information shall be contained in the search warrant and/or arrest warrant.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
Search and Arrest Warrant Applications

What to ask the Missouri Department of Health?

1. Does the person have a medical marijuana card?
2. Is the person a caregiver / provider?
3. Does the person have a medical marijuana cultivation license?
4. Does the person have an adult use cultivation license?
5. Does the address have an associated card or license?

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
Search and Arrest Warrant Applications

3 – Other information justifying the issuance of the warrant, evidence of marijuana alone, unless there is specific evidence that the amount is outside the amount allowable, is not sufficient.

For example:

No license (for the person, either medical, caregiver, medical cultivation, adult use cultivator, or any license associated with the address in question)

Number of plants – visual observation.

Selling to minors – surveillance, CI, etc.

Distributing to minors – surveillance, CI, et.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
Search and Arrest Warrant Applications

Evidence of marijuana alone, without specific evidence indicating the marijuana is outside of what is lawful for medical or adult use, cannot be the basis for a search of a patient or non-patient, including their home, vehicle or other property.

Prior to executing a search warrant which authorizes entry upon premises for an alleged marijuana offense, the officer must first knock and announce their presence or purpose prior to entering the premises.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
What new rules must law enforcement follow?

Article XIV – Section 7 – Paragraph 7

**After Execution of a Search Warrant or
Conducting a Warrantless Search
For an Alleged Marijuana Offense.**

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
What new rules must law enforcement follow?

Article XIV – Section 7 – Paragraph 7(a)

“After executing a search warrant for an alleged marijuana offense, or conducting a warrantless search for an alleged marijuana offense, the officer shall report the following information to the agency that employs the officer” (Sheriff's Office):

a. The reasons for the warrant or, in the case of a warrantless search, a detailed account of either the probable cause or exigent circumstances, if any, which lead to the warrantless search.

b. Whether any marijuana was discovered during the course of the search;

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT

What new rules must law enforcement follow?

Article XIV – Section 7 – Paragraph 7(a)

After executing a search warrant for an alleged marijuana offense, or conducting a warrantless search for an alleged marijuana offense, the officer shall report the following information to the Sheriff's Office:

- c. Whether any marijuana was seized during the search, and if so, the amount seized.
- d. Whether any other contraband was discovered or seized in the course of the search, and if seized, a description of the contraband.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT

What new rules must law enforcement follow?

Article XIV – Section 7 – Paragraph 7(a)

After executing a search warrant for an alleged marijuana offense, or conducting a warrantless search for an alleged marijuana offense, the officer shall report the following information to the Sheriff's Office:

- e. A description of the tactics used by law enforcement to enter the property.
- f. Whether an arrest was made as a result of the search.
- g. If an arrest was made, the crime suspected.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT

What new rules must law enforcement follow?

What is New?

- 1 – Must contact the Missouri Department of Health prior to application for warrant.
- 2 – Must have additional information for cause to issue the warrant.
- 3 – Develop checklist for warrant.
- 4 – Prior to submitting reports, review for contradictions.
- 5 – Additional layer of review.
- 6 – There will be an after-action form that has not yet been developed.

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ARTICLE XIV – MISSOURI CONSTITUTIONAL AMENDMENT
What new rules must law enforcement follow?



Expungement

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THANK YOU
ANY QUESTIONS?

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